



City of Concord

City Council

Meeting Minutes

Monday, January 11, 2016

7:00 PM

City Council Chambers
37 Green Street
Concord, NH 03301

1. Call to Order

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

2. Invocation by the Reverend Amanda Wagner, West Congregational Church.

3. Pledge of Allegiance.

4. Roll Call.

Present: 14 - Councilor Candace Bouchard, Mayor Jim Bouley, Councilor Byron Champlin, Councilor Mark Coen, Councilor Amanda Grady Sexton, Councilor Allan Herschlag, Councilor Fred Keach, Councilor Jennifer Kretovic, Councilor Gail Matson, Councilor Keith Nyhan, Councilor Dan St. Hilaire, Councilor Stephen Shurtleff, Councilor Brent Todd, and Councilor Robert Werner

Excused: 1 - Councilor Linda Kenison

5. Approval of the Meeting Minutes.

December 14, 2015 City Council Meeting Minutes.

Action: Councilor Champlin moved approval of the December 14, 2015 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

5A. Presentation of resolution in recognition of the services of Battalion Chief Guy Newbery.

Action: Mayor Bouley presented a resolution in recognition of the services of Battalion Chief Guy Newbery.

6. Agenda overview by the Mayor.

****Consent Agenda Items****

Approval of the Consent Agenda

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

Mayor Bouley, referencing item 7 which would amend the impact fee ordinance, inquired whether Council is interested in having this public hearing next month. He indicated that they don't have to hold a public hearing if they aren't going to change the rate.

Councilor Nyhan moved to not set item 7 for a public hearing. The motion was duly seconded.

Brief Council discussion occurred clarifying that if Council does not hold a public hearing and does not vote on this item, the rates will remain as they currently are.

The motion to approve the consent agenda, as amended not setting item 7 for a public hearing in February, passed with no dissenting votes.

Item Tabled for a February 8, 2016 Public Hearing

7. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 29.2, Public Capital Facilities Impact Fees Ordinance; together with report from the Planning Board.

Action: This item was not set for a public hearing.

From the City Manager

8. Positive Citizen Comments.

Action: This positive comments was received and filed.

Consent Reports

9. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$1,987.15 as provided for under the pre-authorization granted by City Council.

Action: This consent report was approved.

11. FY2015 Distinguished Budget Presentation Award Report from the Office of Management and Budget.

Action: This consent report was approved.

Consent Resolutions

Consent Communications

Appointments

From the Mayor

12. Communication from the Mayor regarding the City Manager's Annual Performance evaluation.

Action: This consent report was approved.

End of Consent Agenda

Public Hearings

- 13A. Resolution accepting and appropriating the sum of \$16,934.40 in grant funds from the New Hampshire Highway Safety Agency, funds designated for DWI / Impaired Driver Patrols; together with report from the Police Department.

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

- 13B. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 29.2, Public Capital Facilities Impact Fees, Senior Housing; together with report from the Assistant City Planner.

Action: Heather Shank, Assistant City Planner provided a brief overview.

Councilor Bouchard inquired as to the age on senior housing. Ms. Shank responded that they referred to the definitions within the RSA which has two separate categories: 55 and older; and 62 and older. Both of these would qualify. Councilor Bouchard noted that there is a 55 and older community being built on Triangle Drive and questioned whether this would apply to them. Ms. Shank responded that they came before the Planning Board process before this was proposed so a separate arrangement was made them. She stated that this project is what prompted them to do this.

Mayor Bouley opened the public hearing.

Public Testimony

Richard Uchida, attorney, stated that he feels this ordinance is fair and recognizes that these projects do not generate the kind of traffic on the roads and bridges of the city that normal projects do; it only produces half the traffic. He noted that this

housing category makes a lot of sense and is what represents a fair share for housing for older persons. He indicated that he did work on this with city staff and is very supportive of this change.

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

13C. Report from the City Planner amendment to Mapped Line of Future Street - Bog Road to Kyle Road.

Action: Councilor Herschlag recalled the Planning Board meetings on this project and it was his understanding that this road was designed to reduce the flow of traffic on Fisherville Road for people cutting through from Bog Road. Referencing the report, he inquired as to what went wrong questioning in regards to the wetlands and whether the new plan met the conditions of the original application. Nancy Larson, City Planner, responded that her understanding with the wetlands mapping is that when the original mapped line of a future street was laid out, it was laid out based upon the city's information; a lot of the wetland mapping was based upon aerial photography. She doesn't believe that anyone had done any on the ground wetlands survey at that point in time. Fast forward to a year ago, Ms. Larson explained that the developer brought in a conceptual proposal for phase four and argued to the Planning Board that the area that is set aside as the mapped line of a future street to connect Kyle Road to Bog Road is far too wet and is not a feasible connection. She noted that the property at 84 Bog Road, within the agenda, came in with a conceptual subdivision plan which hadn't mapped the wetlands to any great degree. Discussions had occurred that there may be a problem making this connection in which they came in with a more detailed wetlands mapping associated with a request for final subdivision plan approval of a three lot subdivision. She explained that, during this process, they were able to have on the ground wetlands mapping that they didn't have several years ago when the original mapped lines of a future street was laid out.

Councilor Herschlag asked how many units are being proposed with the new project, Vintage Estates. Ms. Larson responded that this has been conditionally approved with approximately 20 to 30 units. She stated that this project is not impacted by this mapped lines of a future street.

Councilor Herschlag inquired whether Vintage Estates would have access to the connectivity between the Vineyards and Sandwood. Ms. Larson responded yes.

Mayor Bouley opened the public hearing.

Public Testimony

Roy Schweiker, resident, spoke in opposition to this report. He noted that he doesn't know what can legally be done at this point but feels that Council needs to vote no and not approve this item.

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

Public Hearing Action

14. Resolution accepting and appropriating the sum of \$16,934.40 in grant funds from the New Hampshire Highway Safety Agency, funds designated for DWI / Impaired Driver Patrols; together with report from the Police Department.

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

15. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 29.2, Public Capital Facilities Impact Fees, Senior Housing; together with report from the Assistant City Planner.

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

16. Report from the City Planner amendment to Mapped Line of Future Street - Bog Road to Kyle Road.

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

Councilor Herschlag noted that within the report it states that the original condition was that before approval of phase two, before a certificate of occupancy was allowed, this road connecting Bog to Kyle would have to be completed. He pointed out that they are into phase four and wonders at what point was the city made aware that there were issues or potential issues with the wetlands. Ms. Larson responded that these issues were brought to their attention by the developer when he came forward with the conceptual plan for phase four of the Vineyards; at that point in time, there was already a mapped line of future street satisfying his previous condition on the books.

Councilor Herschlag indicated that it is off to him that it wasn't identified earlier by the developer if there was a requirement to have the road completed before the

developer received a certificate of occupancy for phase two. Ms. Larson responded that, per ordinance, if anyone has a mapped line of a future street on their property, in the process of developing their property they have to build that mapped line of a future street and incorporate it within their development; in the meantime they can't make any improvements in that mapped line of a future street that would make it impossible or infeasible to continue with it.

Councilor Herschlag noted that his understanding is that this road should have been completed before phase two was approved by the city for a certificate of occupancy. He indicated that they are only seeing the issue of the wetlands coming up now when they are looking to develop phase four. Ms. Larson explained that the condition didn't require that the developer build the road; it requires that he submit a plan suitable for adoption as a mapped line of a future street to extend Kyle Road over to Bog Road.

Councilor Keach indicated that he has spoken to individuals of both sides of this project and noted that they are in favor of the proposal and think that it's a legitimate way to preserve wetlands and preserve that space without impacting it in a negative way.

Councilor St. Hilaire, referencing maps, questioned whether phase four are the buildings that are drawn in an outline and not colored in. Ms. Larson responded no explaining that it is existing Vineyards that has access from Bog Road; Ms. Larson clarified phase four for the Council on the map.

Councilor Champlin pointed out that the first slide in the powerpoint section within their packet shows the perspective project with the future road line, the future use superimposed.

Councilor Herschlag noted that he is concerned with developing on a wetland but his bigger concern is how much time the Planning Board spent trying to design this road. His ongoing concern with this isn't to develop a road through the wetlands or ideally even have this road connect through another neighborhood but to see if there is a way to continue this road directly to Borough Road without impacting either one of the neighborhoods. Councilor Herschlag asked if there was a way to move forward in remapping this road so that there would be connectivity between Bog and Borough and that it wouldn't impact the Sandwood Development. Ms. Larson responded that they can look into that but at this point in time the issue at hand is that they are requesting that the Council take action; there are two options -

eliminate the mapped line of a future street or reduce it to a level that becomes a pedestrian way. She noted that if it's the Council's desire to look at another connection, they can do that. She doesn't want to confuse matters and mix it up with this issue.

Councilor Nyhan mentioned a non-vehicular path. Ms. Larson noted that they can try to make a lesser connection but to expect that they could build this road in such a way that all motorized vehicles would be able to make it through here, in their opinion, it would create a significant impact.

Councilor Herschlag moved to table this item. There was no second to the motion.

The motion to approve the request for discontinuance of a portion of the mapped lines of a future street between Kyle Road and Bog Road passed with one dissenting vote by Councilor Herschlag.

Appointments by the Mayor

Reports

New Business

Unfinished Business

17. Resolution amending the official map so as to establish the mapped lines of a future street for a new street from the intersection of Storrs and Theatre Streets southerly to Langdon Avenue; together with report from the Assistant City Planner. (1-16) (2-33I; 2-42) (3-39) (4-37) (5-58) (6-53) (7-40) (8-65) (9-37) (10-36) (11-40) (12-37)(1-42) (2-56) (3-45) (4-18) (5-45) (6-42) (7-38) (8-26) (9-42) (10-41) (11-41) (12-33) (1-47) (2-34) (3-30) (Action on this item tabled following a February 2013 public hearing)

Action: Councilor Champlin moved to remove this item from the table. The motion was duly seconded and passed with no dissenting votes.

Councilor Champlin moved to set this item for a February public hearing. The motion was duly seconded and passed with no dissenting votes.

18. Report from the Rules Committee recommending revisions to the current Rules of the City Council. (Item tabled, no action taken, at the June 8, 2015 City Council meeting).

Action: This item remains on the table.

19. Supplemental report from the City Engineer outlining lighting alternatives for the Downtown Complete Streets Improvement Project (CIP460).

Action: This item remains on the table.

Comments, Requests by Mayor, City Councilors

Action: Councilor Kretovic announced that ward officials within Ward Three are looking for assistance for the upcoming Primary Election. She indicated that anyone interested could contact her at jkretovic@concordnh.gov.

Councilor Bouchard noted her concerns for safety issues in regards to Concord Steam. She inquired whether they are working on a back up plan for businesses and city buildings if Concord Steam goes down if something happens. She noted that, from what she has been reading in the paper, it appears to be in a lot worse shape than she previously thought.

Mayor Bouley indicated that the Public Utilities Commission, the Fire Marshal, the city's Fire Department, City Administration, Governor's Office and Governors Council are all aware and working on this.

Councilor Champlin highlighted several upcoming activities: the Winter Carnival/the Ugly Sweater 5K at White Park on January 23rd; and the Black Ice Pond Hockey Tournament on January 29th through 31st at White Park.

Councilor Werner recognized that former city employee Roger Hawk passed away.

Mayor Bouley noted that it's been a strong desire of the Council to make the Beaver Meadow Golf Course a year round facility. He announced that they now have two golf simulators so that golf can be played all year round. He recognized the golf course staff and the Golf Course Advisory Committee for a great job.

Comments, Requests by the City Manager

Action: Mr. Aspell referenced item number 11, GFOA Award for distinguished budget, and explained that it's a very high honor to be able to receive that. He noted that it usually takes several years before being awarded this. This was the city's first year applying for this and the city received this award in its first year. He recognized Brian LeBrun, Katie Graff, Bob McManus and other city staff for preparing the budget.

Consideration of Suspense Items

Sus1. Report from the City Engineer on the status of the Loudon Road Safety Improvement Project (CIP19).

Action: Councilor St. Hilaire moved to suspend the rules to consider this item not previously advertised. The motion was duly seconded and passed with no dissenting votes.

Mayor Bouley provided a brief overview of the history of this item. Referencing page seven of the report, he pointed out that the recommendation reflects exactly what the Council approved at their last public hearing which was to move forth with the road diet. He posed the question as to whether this is something that they still want to do. He indicated that he has had second thoughts as to whether or not it would be effective; he's learned a lot from the Main Street project and the success of doing three lanes. He personally became concerned when starting to look at all of the conflicts that potentially exists for left hand turns on Loudon Road and started wondering if it's the right thing to do. Mayor Bouley noted that he wonders what they can do to be effective because it can be a very difficult place particularly for pedestrians - a lot of the conflict he sees is pedestrians, specifically kids, who are living on the north side of Loudon Road trying to get to Keach Park or other areas. He feels that there are big areas where it is almost a complete driveway - there's no sidewalks, there is no safety area for pedestrians. He noted that there are several pieces on Loudon Road which he feels are ripe for redevelopment and if looking for redevelopment of this area, he feels that they could accomplish a whole lot by consolidating some of the curb cuts. He wonders if there might be a better use of these dollars to providing a safer place for pedestrians, having less conflict between vehicles and pedestrians, if they were to ask the City Engineer and Administration to go back to the Department of Transportation; not do the road diet for three lanes but ask them if the city can repurpose those dollars to use for safety improvement for consolidating curb cuts and providing a safer way for pedestrians.

Councilor Bouchard noted that she supported the road diet which she believes is the safest way to go forward; she also has concerns similar to the Mayor. She stated that she has heard loud and clear that the public is not at all comfortable with going down to three lanes; they would like to see the city move forward with other

traffic calming measures. She also heard from the Hodges Corporation that they are also uncomfortable with the three lane configuration. She supports looking at traffic calming, improving pedestrian access and curb cuts. She feels that the more consolidation of access and curb cuts that they can do will help to eliminate some of the accidents that occur with the left hand turns. She asked if they could get approval to do landscaping which helps with traffic calming asking if they could make Loudon Road look more like a neighborhood. She suggested that when they do go forward with paving the street that they do the stamp brick look where the pedestrian cross lights are. The more that they can do along with the curb cuts and sidewalks to get some kind of traffic calming measures for pedestrian safety.

Councilor Matson echoed Councilor Bouchard's comments adding that she has also heard from her constituents that they are also not in favor of the three lanes. She is also hoping for similar measures of traffic calming and beautification to increase pedestrian/traffic safety. She would also like to see the road paved as well.

Councilor Coen indicated that he is not comfortable with changing this noting that he feels that the number one thing for traffic calming is the three lanes. He has seen it work successfully on Fisherville Road, North State Street and downtown. He stated that the problem is when they have the four lanes, two lanes each going westbound and eastbound, cars are cutting in from one lane to another. In the last eighteen months he has tried to make the point of driving on Loudon Road just to view the patterns and the impact and the number one thing that he sees is speed and vehicles darting in and out from one lane to another; this is how accidents happen. He pointed out that by going to three lanes on Fisherville Road, they have eliminated 99 percent of this problem.

Councilor Keach respectfully disagreed with Councilor Coen noting that he doesn't feel that Fisherville Road and Loudon Road is an equal comparison. He inquired whether there was ever an option of, for example, a South Willow Street model in which there is a jersey barrier that only allows left hand turns every half mile or so. City Engineer Ed Roberge responded that was one of the alternatives that was explored which was a divided four lane highway similar to the eastside and the west

end of Loudon Road that currently exists. He noted that if they wanted to do that it would require widening the corridor; they had a project in which they were trying to stay within the context of the existing curb.

Councilor Kretovic noted that she appreciates that opinions can change over time but feels that what they are talking about right now are only focusing on pedestrians and vehicles and even the report doesn't bring to mind the number of cyclists that are using this road; cyclists are using the sidewalks because it's not safe enough to be in the road and the road is not currently wide enough in order to accommodate bikes. She wants to ensure, regardless of the curb cuts and the left hand turns, that they are not leaving bikes out of the conversation. She is afraid that if they only focus on those two concerns, they are going to.

Councilor Herschlag wondered if they could look at the center median plan again but look at a scaled down version similar to what they have on Route 7 in Vermont or South Willow Street in Manchester. He understands that because of the narrowness of the road, that there would probably have to be a cut out at that intersection in order to complete that u-turn. He noted that even with consolidating the curb cuts, there is still going to be a tremendous amount of issues trying to get across to make left hand turns; the more that they can do to control how those left hand turns occur, the safer this road will be.

Councilor Todd stated that whatever plan he will eventually vote for, he believes that the complete streets element of this project is very important and would include bicycles, pedestrians and motorized vehicles. He also would want to know, if in fact they were not going to go on the road diet and just simply implement a smaller scale plan as suggested this evening, what would the estimated traffic injury count be. Would they still be able to achieve with this new proposed plan the same amount of safety that they could with the road diet. He stated that if the answer to this question is no then he would be inclined to vote for the road diet because the safety element is why they were taking this project on and considering this plan in the first place.

Councilor Shurtleff stated that, based upon public forums and constituent

concerns relayed by Councilors Bouchard and Matson, it sounds like the road diet plan doesn't not have support from the public. He would like to see this project go back to Engineering asking them to incorporate recommendations made by Councilors this evening into a new plan.

Councilor St. Hilaire noted his agreement with Councilor Bouchard regarding her suggested improvements and indicated that he too has had reservations since voting for the road diet. He realizes that part of the reasoning for going to three lanes was to try to slow down the traffic and make it safer; the question becomes whether the road begins to fail when you slow down that amount of capacity during the work day, lunchtime, etc. He pointed out that there is a space near Burger King and CVS in which there is supposed to be a left turn lane there but it's not marked as a turn lane - clearly it has to be because there is no other way for traffic moving eastbound to enter that complex. He indicated that they created a large double lane space that's not even straight like a turn lane and motorists are confused. He asked staff to look at this to see if they can make this into a turn lane that's clearly designated. He added that if there is space, they add refuge space for pedestrians in the middle of the roadway so the crosswalk to Keach Park, for instance, is there a space in which they can move it down a little further closer to where the strip mall is. He stated that he supports doing whatever they can do to enhance safety but keep the four lanes.

Councilor Nyhan stated that there have been a lot of good opinions this evening noting that the Mayor had suggested asking the federal government if the city could redesign the road. He noted that he feels that they should ask that question and if they need to have another public hearing then they can. He wants to get more information first. He feels that the road does need to be paved and he would rather do it with federal money than all city money.

Mayor Bouley noted that the city was successful in the ninety percent share from the federal government because they were going to a road diet. He asked for clarification that if they did not do a road diet, that they would not be approved and the paving would be the city's responsibility.

City Engineer Ed Roberge explained that the project is predicated upon a benefit cost analysis of what they are actually doing and the safety benefits that can be arrived on those results. In this case, he indicated that the lane conversion project (road diet) actually had specific benefits that qualified the project and that is how they were successful. He noted that if they maintain the four lane and they don't reduce that and look at access management strategies and different traffic calming strategies, it may not reach the benefit thresholds to qualify. He stated that it's something that they can look at - look at the other alternatives, look at where the benefit costs analysis comes in and ask DOT and federal partners on whether or not this qualifies.

Councilor Champlin noted his agreement with Councilor Nyhan stating that he would like to know whether they could get the federal funds if they didn't move forward with the plan that they previously adopted. He deeply respects the concerns expressed by Councilors Bouchard and Matson and their constituents. He indicated that maintaining the status quo on Loudon Road does not address the complete street policy that this Council adopted which is predicated upon safety, pedestrian safety, pedestrian access and also alternative forms of vehicular travel such as bicycles. He agrees with Councilor Kretovic noting that bicycle travel is increasing within the city and that they have heard from the bicycling community that they want safe access to the roadways equal to people in automobiles.

Councilor Kretovic inquired as to the cost of paving this road. Mr. Roberge responded that it would cost \$1.2 million.

Councilor Bouchard stated that she is adamantly opposed to doing anything that makes Loudon Road look like South Willow Street with a barrier down the middle of the road. She noted that Loudon Road is unique because it's a road of independently owned businesses, big box businesses, single family homes, condos, apartments and an active walking and biking community. She indicated that she does agree that bringing it down to three lanes is probably safer but does know that people who drive this road and live and connect onto Loudon Road are not comfortable with that and they are not comfortable with the middle lane. She feels that they should take an interim step to do whatever calming measures they

can. As far as biking, she noted that even with the road diet, the amount of curb cuts that are on Loudon Road still makes it unsafe for biking. As far as complete streets, she stated that although they might not be able to make biking as safe as possible in all areas on Loudon Road there are parallel roads that bikers can use to access Loudon Road. She feels that there is a way to incorporate biking with letting them know of safer parallel roads to travel. She would like to move forward and see if there are other safety measures that they can qualify for.

Following brief Council discussion, Councilor St. Hilaire moved to direct city staff to go back to DOT and submit recommendations for safety improvements for a four lane redesign and set this for a public hearing. He explained that if they need to delay this public hearing then they can. The motion was duly seconded.

City Manager Tom Aspell feels that they shouldn't set it for a public hearing because the public will not know what the hearing is about; there wouldn't be anything to measure it against or compare it to. He suggested that staff talk to DOT. He noted his agreement with Council that the road needs to be paved within the 2016 construction season so if they are getting into the middle of the season and they are not getting anywhere, he would come back to the Council with a request for a public hearing to appropriate the dollars to pave the road and put it back the way it was - piecemealing improvements as they go on in future years.

Councilor St. Hilaire restated his motion to remove the public hearing piece. The motion was duly seconded.

Councilor Todd feels that, in addition to a public hearing, he thinks what may be helpful would be to have some additional neighborhood forum if there was an additional plan or plans that could be chosen from so that people got a chance to weigh in and be able to have engineers and city staff explain those proposals.

Councilor Kretovic has heard that they could use the federal dollars in order to repave this and if they don't like it they can restripe it another way. She asked for clarification as whether they can in fact do this if they wanted to convert it back and is there a timeframe that it needs to be left in place before making changes and

what that timeframe may be. Mr. Aspell responded that there is no specific timeframe explaining that they would have to demonstrate why it wasn't working. Councilor Kretovic indicated that she wanted the clarification because she is very sensitive to this neighborhood and contact sensitive solutions are exactly what the federal government is looking for but they have the rest of the city that is complaining about paving on this road. She doesn't want people at home to be left with the impression they the city can just take the money, pave it and next season strip it up and go to four lanes.

Councilor St. Hilaire's motion passed with no dissenting votes.

Referral to City Administration

Sus2. Communication from The Flying Yankee Restoration Group Board of Directors inquiring as to whether or not the City of Concord is interested in exploring a partnership to restore and relocate the Flying Yankee Streamline Train from Lincoln to Concord.

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

Adjournment

The time being 8:41 p.m., Councilor Kretovic 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