



# City of Concord

## City Council

### Meeting Minutes - Draft

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Monday, March 14, 2022

7:00 PM

City Council Chambers  
37 Green Street  
Concord, NH 03301

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***Non-public session in accordance with RSA 91-A:3, II (d), to discuss the acquisition, sale or lease of property to be held at 6:00 p.m.***

**Present:** 12 - Councilor Candace Bouchard, Mayor Jim Bouley, Councilor Byron Champlin, 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, and Councilor Brent Todd

**Late:** 3 - Councilor Stacey Brown, Councilor Nathan Fennessy, and Councilor Zandra Rice Hawkins

**Action:** Mayor Bouley called the meeting to order at 6:03 P.M.

Councilor Nyhan 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 and Brian LeBrun; City Clerk Janice Bonenfant; and City Solicitor Jim Kennedy

At 6:30 P.M., Councilor Nyhan moved to exit non-public session and enter a non-meeting with legal Counsel. The motion was duly seconded and passed with no dissenting votes.

At 7:08 P.M., Councilor Grady-Sexton moved to adjourn the non-meeting with legal Counsel. In public session, Councilor Grady Sexton 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 Matson moved to adjourn the non-public session.

1. Mayor Bouley called the meeting to order at 7:10 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 Fennesy, 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

5. Approval of the Meeting Minutes.

February 7, 2022 City Council Draft Meeting Minutes.

**Action:** Councilor Nyhan moved to approve the February 7, 2022 Council Meeting Minutes.

Councilor Brown motioned to have the February 7, 2022 Council Meeting Minutes amended to indicate that public testimony was submitted regarding transportation, specifically about sidewalks, and was on file and available in the City Clerk's office. Mayor Bouley asked to clarify if the February 7, 2022 Council Meeting Minutes should be updated in Item 4 to reference the received public testimony, to which Council agreed.

This motion was duly seconded and passed with no dissenting votes.

February 14, 2022 City Council Draft Meeting Minutes.

**Action:** Councilor Nyhan moved to approve the February 14, 2022 Council Meeting Minutes. This motion was duly seconded and passed with no dissenting votes.

6. Agenda overview by the Mayor.
7. Resolution in recognition of the services of Robert Werner.

**Action:** Mayor Bouley presented former Councilor Robert Werner with a commemorative placard displaying Resolution 9434 in recognition of his services and extended his thanks and appreciation for his service and commitment to the City of Concord.

Former Councilor Werner thanked members of City Council for the honor and accolades, but emphasized that the City was a special place because of the commitment made by Council members and citizens, noting that nothing truly great could be made great or long lasting without teamwork.

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

**Action:** Councilor Nyhan moved approval of the Consent Agenda Items. This motion was duly seconded and passed with no dissenting votes.

**Referral to the Regional Utility Utilization Committee**

8. Communication from Pembroke Water Works regarding Water System Interconnection.

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

**Items Tabled for April 11, 2022 Public Hearings**

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

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

10. Resolution repurposing the sum of \$31,998.90 from the CIP #88 2017 CO2 Tank & Control Replacement subproject for use on the CIP #347 2018 Solar Power Improvements subproject; together with report from the General Services Director.

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

11. Resolution appropriating the sum of \$13,000 in the CIP #515 Golf Course Winter Recreation Improvements project for the purchase of a track cross country ski trail groomer and accepting the sum of \$13,000 as a donation for this purpose; together with report from the Parks and Recreation Director.

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

12. Resolution appropriating the sum of \$10,000 for the purchase of water-related

catastrophe equipment and accepting the sum of \$10,000 in grant funding from the Department of Safety, State Homeland Security Grant Program for this purpose; together with report from the Deputy Fire Chief.

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

### **From the City Manager**

13. Positive Citizen Comments.

**Action:** Positive comments were received and filed.

### **Consent Reports**

14. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$735.33, as provided for under the pre-authorization granted by City Council.

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

15. Diminimus gifts and donations report from the Parks and Recreation Director requesting authorization to accept monetary gifts totaling \$19,612.24, as provided for under the pre-authorization granted by City Council.

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

16. Report from the Deputy City Manager Finance recommending 2022 Beaver Meadow Golf Course daily fee, cart, GHIN, range, outing and tent rates as recommended by the Golf Course Advisory Committee.

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

17. Report from the Local Government Management Fellow requesting the City Manager be authorized to apply for a Federal Aviation Administration Airport Terminals Program grant.

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

18. Report from the General Services Director recommending the City Manager be authorized to execute an easement deed with Unitil Energy Systems, Inc. and Consolidated Communications of Northern New England Company, LLC for the installation and maintenance of a new electrical service line to the existing water pumping station serving the Pembroke Well Field on North Pembroke Road.

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

## Appointments

19. City Manager's Proposed Reappointments to the Conservation Commission:  
Christopher Kane, Frederick Chormann, and Katherine Healy

**Action:** These appointments were approved.

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

## Public Hearings

- 20A. 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:** Councilor Nyhan motioned to un-table the item. The motion was duly seconded and passed with no dissenting votes.

Mayor Bouley opened the public hearing. There being no public testimony, Mayor Bouley closed the public hearing and reminded Council that a vote would be taken in April.

- 20B. Ordinance amending the Code of Ordinances, Title III, Building and Housing Codes; Chapter 26, Building Regulations, Article 26-9, Demolition Review; together with report from the Heritage Commission.

**Action:** City Manager Aspell stated that the Heritage Commission was proposing amendments to the Demolition Review Ordinance. He stated that the ordinance was intended to allow the Demolition Review Committee (DRC) an opportunity to determine if structures greater than 50 years old had historical significance, and if so, to pursue alternatives to demolition with the property owner. He noted that Heritage Commission members made up the DRC, which reviewed demolition applications. He stated that the intent of the amendment was to clarify and simplify the process for applicants, allocate time differently to allow the DRC more flexibility to make determinations, and add 11 days to the review process to allow Committee members more time to explore alternatives with property owners when structures had been determined historically significant.

City Manager Aspell noted that the existing ordinance allowed a 49-day period for the demolition review process and that the proposed ordinance would allow a 60-day review period. He stated that the majority of requests for demolition were granted within the first twelve business days of the applicant's submission. He also noted that the Committee might request to photograph structures that were

determined to be historically significant, rather than have a public hearing or explore alternatives. He added that in the past seven years, only one project had run the demolition review process out to the 49-day limit. He noted that the Committee anticipated that only a very small percentage of projects would be affected by the addition of eleven days to the process.

Councilor Pierce asked to clarify how the Committee determined a 60-day period, to which City Manager Aspell stated that it was initially presented to Council as a 90-day review period, but 60 days was the compromise made between the Committee and the development community.

Mayor Bouley opened the public hearing.

Rick Jaques, the Chair of the Heritage Commission, noted that positive feedback and conversations were had with contractors regarding a 60-day review period and noted that many already accounted for that time period in their project timelines, especially in dealing with historic buildings. He advocated for the change to give the Committee more time to work with developers and property owners to save what could be saved. He noted that there were only a few Committee members, that were unpaid volunteers, who often took vacations and traveled, that would benefit from not having to rush through the review process.

Councilor Nyhan stated that he struggled to understand why more time was needed in the review process if there was only one reported conflict in seven years, as he felt that the review time and process was working just fine as it was. He noted that if there was only one issue every seven years, that perhaps it was a catalyst to help the Heritage Commission get things done more quickly.

Mr. Jaques stated that there was only a certain number of people on the Committee and it was getting harder and harder to do everything feasible to either try to save a property or work with contractors and home owner's to find alternative options, and more time in the beginning would be helpful. He noted that the referenced issue that occurred within the last seven years did not exceed the 49-day review period, but it took all the allotted time to comply with public hearings, etc.

Councilor Kretovic noted that the one building conflict referenced took the full 49-day review period and then was demolished, which resulted in the community losing a historic building. She asked Mr. Jaques to clarify that the extended review period was not to delay the demolition of unsafe structures of buildings that posed

health or safety hazards, but would rather focus on salvaging historic properties that were relevant to the community, to which Mr. Jaques confirmed.

Councilor Champlin asked Mr. Jaques if the 11-day extension period was more like an insurance policy against the one historically relevant property that might take a bit longer to save, to which Mr. Jaques confirmed, but noted that it was only part of the issue. He clarified that it took a significant amount of time to thoroughly research a property's history and relevance, as well as reviewing the structural integrity to ensure the building wasn't falling in on itself. He emphasized that people could only be expected to do so much.

Councilor Champlin asked Mr. Jaques to clarify if the majority of historic buildings were falling in on themselves or if they were just in the way of someone else's plans, to which Mr. Jaques confirmed that yes, sometimes that was the case.

Mayor Bouley noted that the ordinance change seemed to be a reactionary response and asked if instead of waiting for people to come to them, did the Heritage Commission identify building's of interest within the community, more on the front end of it, to which Mr. Jaques noted that in the past the Commission was more reactionary, but is changing to be more proactive. He noted that the biggest change would be to change the code itself, as it was written to keep the Heritage Commission separate from the City, where he felt that a more collaborative effort was sometimes needed. He noted that early research was important.

Councilor Champlin asked if the Heritage Commission had any plans to proactively identify key historic buildings in the City that might become hazardous so that relationships could be developed with those property owners to encourage property preservation. Mr. Jaques noted that it was in the works, stating that the Commission had been actively cataloging buildings that were removed. He noted that a goal was to have the City's website eventually show what the demolished properties looked like inside and out, as well as what was wrong with them. He noted that a similar process was being done for properties that were salvaged, so that there was a visual record. He noted that outside of the City not allowing businesses, corporations, or property owners from neglecting the buildings, there was not much that the Heritage Commission could do.

Councilor Todd thanked Mr. Jaques for his work on the Heritage Commission and elsewhere in the City. He asked if the Heritage Commission could share any reports, communications or success rates with Council on the Commission's

progress, and continue along the way. He also noted that the maintenance and retention of historic properties had significant economic potential and boom for the City.

Mr. Jaques stated that he anticipated communications with Council to improve, as he felt there was good Council representation that consistently gave updates, and he felt that communications with Planning had also been improving to keep everyone informed.

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

- 20C. 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, by adding a full-time Assistant Golf Professional; together with report from the Deputy City Manager Finance.

**Action:** City Manager Aspell stated that, the City had been operating on a model of having an Assistant Golf Professional, as a temporary position, but noted that the recent departure of the long term assistant has left a need for this position. He stated that the City had been unable to attract any qualified candidates due to the current job climate and the temporary status of the position. He noted that with improved conditions, maintaining the highest level of customer service was also essential. He noted that in addition to pro shop operations for tee-times, inventory sales, group and individual lessons, and leagues, the course also managed numerous outings throughout the year. It was noted that during the height of the season the course was open to the public from 6:30 am to sundown.

City Manager Aspell stated that it was imperative to have the appropriate staff in place to work closely with the Director of Operations to schedule, plan, organize and execute all of the activities, as this position was key to help maintain operations. He noted that by filling this position by April 15, 2022, the Golf Fund would be able to manage the expenditures within the FY 2022 appropriated budget and then budget appropriately for FY 2023, resulting in no tax impact if approved.

Councilor Nyhan asked to confirm that this position would be a permanent full time position instead of a seasonal full time position, to which City Manager Aspell confirmed.

Councilor Fennessy asked if the expectation was to have the full time Assistant Golf Pro help with the winter golf simulator, to which City Manager Aspell noted

that the assistant position, workload and job demands had changed. He noted that prior to the simulator there was an off season, but with increased demand, now there was not. He noted that with increased room and funding, a third simulator could be set up for full time use, that would generate more revenue for the Golf Course.

Councilor Brown noted that the report referenced that "many golf courses have moved to a model" and asked for clarifications on which Golf Courses were being referenced. Deputy City Manager - Finance LeBrun stated that he did not have specific Golf Course names, but noted that Phil Davis, the Assistant Director of Operations, was a member of the New Hampshire Golf Association and the Golf Course Owners Association, and noted that at meetings over the past few months, he met with other professionals that mentioned having switched to a full time model to staff their own positions.

Councilor Kretovic asked to confirm if the Golf Pro told the Golf Course Advisory Committee that other golf courses were having a difficult time filling pro positions, based on the qualifications of the PGA, in order to have a pro or assistant pro. Deputy City Manager - Finance LeBrun stated that the qualifications were part of the problem, as there are fewer qualified people out there to fill a larger amount of open positions.

Councilor Brown asked to clarify who made up the Golf Owners Association, private or Municipal owners, to which Deputy City Manager - Finance LeBrun stated that it was a variety, noting that most were privately owned, as there were only a few Municipal or Government owned in the State.

Councilor Pierce asked to clarify if the proposed labor rate included benefits, to which Deputy City Manager - Finance LeBrun confirmed, that the referenced salary range included all the benefits.

Councilor Rice Hawkins asked to clarify what the Assistant Golf Professional position did, to which Deputy City Manager - Finance LeBrun stated that teaching, managing all of the leagues, handling the simulators in the winter, coordinating and managing outings and events, providing membership presentations and customer service, managing the driving range, along with countless other tasks on a daily basis. Deputy City Manager - Finance LeBrun stated that he believed having a full time position would help increase the revenue for the Golf Course.

Councilor Rice Hawkins asked, as a follow up, which of the referenced roles required the PGA requirements, and which could be cross trained. Deputy City Manager - Finance LeBrun stated that the PGA card was needed for the overall management of operations, but primarily teaching. He stated that having a PGA professional, that knew the game of golf, that could help with lessons and game improvements, was included in the customer service experience, that would help attract people and keep them returning.

Councilor Rice Hawkins asked, as a follow up, if the position would have still been expanded if there were no issues with hiring, to which Deputy City Manager - Finance LeBrun stated that it had been in ongoing discussions while being mindful of the budget. He noted that revenues had been strong for the past few years and coupled with the difficult hiring process, he felt that it made sense to bring the proposal forward to fill the void.

Councilor Nyhan noted that City Manager Aspell stated that the position funding would be absorbed by the Golf Fund, and asked if the revenue pro-forma projected increased revenues funding the position or would it be operating in the red. Deputy City Manager - Finance LeBrun stated that the fund would not be operating in the red in the current or next fiscal years, noting that revenues were budgeted conservatively, and it would be monitored.

Councilor Keach asked to clarify if the Golf Course was self sustaining, to which Deputy City Manager - Finance LeBrun stated that it was more than self sustaining, and noted that the prior year's net profit was approximately \$240,000, after \$140,000 was deferred for membership revenue.

Councilor Keach asked, as a follow up, if similar projections were expected this year and ongoing with the new position, to remain self sustaining, to which Deputy City Manager - Finance LeBrun confirmed, that yes, that was what was anticipated.

Councilor Rice Hawkins asked when the last known time was without the position, to which Deputy City Manager - Finance LeBrun stated that it was before his time, and noted that he had been with the City for 12 years.

Councilor Brown asked to confirm that the City did employ a full time Golf Pro, to which Deputy City Manager - Finance LeBrun confirmed and noted that he was also the Director of Operations. He speculated that it would be very difficult for Mr. Davis to manage both positions without an assistant.

Mayor Bouley opened the public hearing.

Mark Coen and Bob Whatmough, Concord residents and serving members on the Golf Course Advisory, endorsed their shared support of the full time Assistant Golf Professional. Each took turns to share their thoughts.

Mr. Whatmough stated that with the increase in membership, increase in daily rounds, tournaments and leagues, more staff coverage was needed. Mr. Whatmough recognized the difficulties of hiring for this position in the current employment environment, and fully supported it being a full time position. He speculated that the change would lead to more consistent and professional staffing, and supported improving all elements that made Beaver Meadow Golf Course a go-to and desirable location, in the area.

Mr. Coen reiterated his support of the position, stating his opinion that the hours of running a year-round golf course, starting at 5:30 A.M. to about 8:00 P.M. for staff, seven days a week was too much for one pro. He noted his belief that having an assistant pro would help keep up with demand. He stated that staff could either turn people on or off to a business and appreciated Phil Davis and his personality that drew in new people. He reiterated his belief that the quality of the people hired were what would keep the business a benefit, to the community, while enhancing revenue.

Councilor Kretovic asked Mr. Coen and Mr. Whatmough if they knew how many Golf Pro's the golf course had gone through over the years, to which Mr. Coen estimated five. He stated that in the past, the position was temporary, so the was no year to year continuity.

Mr. Whatmough stated that he had plans to take course simulation lessons, that were offered year round, and let the Mayor know, in jest, that he would be going after him.

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

- 20D. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, Article 1-6, Code of Ethics; together with report from the Rules Committee. (Supplemental ordinance and report submitted.) (Public testimony received.)

**Action:** City Manager Aspell reminded Council that they had received a supplemental report, supplemental ordinance, and public testimony.

Mayor Bouley opened the public hearing.

Jeff Lewis, a Concord resident and Conservation Commission member, stated that he was concerned about possible unintended consequences that the change could bring. He noted that although written public testimony was submitted on behalf of the Conservation Commission, he was in attendance to speak on his own accord. He noted that his concern was primarily with the last section, Ethics Ordinance Section 1-6-5, where it referenced representing private interests before City agencies. He stated that he felt that this change was odd as it was a departure, of the norm, of how some of the land use boards and quasi judicial bodies in the City operated. He stated that he wanted to make sure that Council was aware that this change would be a 180 from current operations, at least for the Conservation Commission, and other boards, as well as unsuspecting members of those boards.

Mr. Lewis stated that he had done some research, prior to the Council meeting, to determine why the proposed change was needed now, as he felt that things were going good. He stated that he knew this proposed change stemmed from concerns raised at the January Council meeting, over a potential conflict of interest and ethics violation, in which the Rules Committee was tasked with reviewing current processes and procedures to clearly define conflicts and recusal requirements. He noted his support and appreciation of the review process, as he felt that refreshers were very important for overall transparency. He stated that, in his opinion, the last section missed the mark. He noted that he read through the minutes of the Rules Committee and found the charge of the review was to review the rules relative to Council and potential conflicts of interest, at the Council, by Council members, and felt that the discussions were specific to Council and not about other appointed officers in the City. He noted that he was not sure if that was missed in the dialogue of the Rule Committee meetings, but suggested that Council have the committee re-review that section before advancing the changes.

Mr. Lewis stated his additional concerns with the proposed changes were due to his professional career. He noted that people were often put on land use boards and committees because they had professional experience and knowledge, that was helpful, and he advocated for keeping them on the boards. He noted that the current procedure dictated that if a member of a committee of board needed to represent the interest of a third party or client, they would recuse themselves from the board or commission, and assist in the presentation to the board or commission.

He stated his belief that the proposed changes were not just clarifications of the current policy, he speculated that they were instead a reversal of the current policy. He also noted that in his review of the Rules Committee minutes, the proposed changes in section 1-6-5 appeared to be added in at the City Solicitor's attempt at adding language in as a "house keeping item."

Mr. Lewis stated his opinion that the rules made a clear distinction between elected officials and appointed officers. He read the current Ethics Ordinance Section 1-6-5, where it stated, "Officers appearing on behalf of another's private interests before any city body shall disclose such interests prior to proceeding." He speculated that this practice was being followed, and noted that in his experience, was happening all over the State. He noted that in his opinion, there was nothing wrong with that practice.

In comparison, Mr. Lewis read the proposed revised wording, which stated, "Officers shall not appear on behalf of another's private interest before the City body of which they are a member. Officers appearing on behalf of another's private interests before any city body of which they are not a member shall disclose such interests prior to proceeding." He noted that the revision stated the exact opposite of the existing language, in regards to representing third party interests. He stated his belief that the proposed change would have unintended consequences. He stated that his intent was not to make the conversation about him, but noted that he had heard from and talked with numerous other concerned people, and felt that he needed to speak up.

Mr. Lewis endorsed his support for the first few section changes, but encouraged Council to have the Rules Committee take another look at the last section, as he felt positive that there were no recorded discussions about that particular line item in the minutes, and felt that it appeared thrown in without proper vetting.

Mayor Bouley thanked Mr. Lewis for his service on the Conservation Commission and commitment to the City recognizing him as the elected Moderator for Ward Eight.

Councilor Keach asked Mr. Lewis to clarify his reference to "unintended consequences," to which Mr. Lewis stated that if the proposed changes passed, he would need to step down from the Conservation Commission. Councilor Keach asked Mr. Lewis to clarify why, to which Mr. Lewis stated that he was a Civil Engineer by profession, owned a small engineering business in Concord, and

represented the interests of his clients for land use boards. He noted that he had done that in Concord for over 20 years before he was asked to join the Conservation Commission. He stated that he saw the same practice in other towns and municipalities across the State, where board members would recuse themselves to assist with presenting projects for clients. Mr. Lewis stated that he knew of other city boards and commissions members that would be facing a similar situation, of stepping down, from service, if the change was approved.

Councilor Keach stated that he agreed with Mr. Lewis as this was a common practice, noting that he too sat on different boards and non-profits, where there was overlap, and recognized that disclosing such information was important to move forward. He stated his belief that this was an opportunity to set an ethics standard where there would be no conflict.

Councilor Fennessy asked to clarify, in Concord, how often did a Conservation Commission member step down from their position as a member, to assist a client before the Commission, to which Mr. Lewis stated that for himself personally, it would be a few times a year. Mr. Lewis added that other people might have different occurrences based on their line of work, but stated his belief that this was a reversal in procedure. He encouraged Council to reach out to other municipalities for input, as he found no connection between the charge of the Rules Committee and the proposed change.

Councilor Bouchard, the Chair of the Rules Committee, stated that she had asked the City Solicitor to review and identify any areas where there could be a conflict of interest that wasn't clear, and to clarify it, which was where the referenced change came from.

Mayor Bouley asked Mr. Lewis to clarify the number of clients or times he represented before the Conservation Commission each year, to which Mr. Lewis stated that it varied, but there were at least six occurrences over a three year period. Mr. Lewis reiterated that he was not trying to make the conversation about him and stated that if other committee members or City staff were asked, there would be more people impacted by the proposed change.

Councilor Champlin thanked Mr. Lewis for his service on the Conservation Commission and stated that it was not Council's intent to discourage members of the public from serving on the City's multiple community Boards. He noted that part of the Ethics Rules was to create transparency and confidence within the

community that City and public business were conducted in an above board way, and asked if Mr. Lewis saw how someone from the outside looking in could potential see something amiss. Mr. Lewis stated that yes, he could absolutely see that, and noted his appreciation for those considerations, but felt that the proposed change was trying to solve a problem that didn't exist right now.

Jennifer Roff, a Concord resident, asked how supplemental documents were handled, and which was Council considering as she noted that the definition of conflict of interest between the supplemental ordinance and the original proposal were very different. She stated that the supplemental document and definition made sense to her and noted that she could see the unintended consequences from the original, but wanted to know which was being considered. Mayor Bouley confirmed that he wrote down her questions and would have the City Solicitor answer them when he came up to speak.

Councilor Fennessy asked to clarify if Ms. Roff understood and liked the supplemental ordinance better than the original in respect to the conflict of interest provision, to which Ms. Roff stated that she did. She noted that it made sense because the family connection was better defined. She extended her thanks to Councilor Champlin for his assistance as she had been emailing him about this topic that weekend.

Allan Herschlag, a Concord resident and former City Councilor, stated that on February 7th the City Council met to set their Priorities. He noted that under transportation projects was the Langley Parkway. He stated that the Mayor's firm continued to represent Concord Hospital, yet the minutes did not indicate if the Mayor declared a conflict of interest or recused himself. He noted that at a September 10, 2018 City Council meeting, there was a public hearing to appropriate \$91,900 for bag fall leaf collection. He noted that the report stated that Casella and the General Services Department held a number of meetings, to explore the transition, from the current bulk fall leaf collection to a new bag fall leaf collection. He noted that Mayor Bouley chaired, spoke to and voted on that item. He noted that while no vendor had been selected for the bag leaf pickup at that time of the City Council meeting, the City had been in discussion with Casella, a company that the Mayor represented a subsidiary of. He stated that a no bid contract had been awarded to Casella.

Mr. Herschlag stated that on April 13, 2015, when an issue regarding fireworks was referred to the Public Safety Board, the Mayor recused himself, but noted that

when the item was addressed at the October 17, 2016 Public Safety Board meeting, the Mayor spoke to this issue. He stated that on April 9, 2018, the Mayor Chaired a Public Safety Board meeting, although he was not a member of the Board and could only be appointed to the Board by the approval of City Council.

Mr. Herschlag stated that, during the time that the Parking Committee was an ordinance based committee, the Mayor regularly attended and participated in their meetings, even though he wasn't a member. Mr. Herschlag stated that at that time, City Council Rules did not permit Councilors, who were not assigned to a committee, to speak at committee meetings.

Mr. Herschlag speculated that at the September 2017 City Council meeting, during discussions concerning Keno, the Mayor falsely testified that neither he or the company that he represented were involved with the Lottery Commission, providing services for Keno.

Mr. Herschlag stated his opinion that it rang hollow when at the January 10, 2022 City Council meeting, Mayor Bouley indicated that as member's of City Council, it was clear within the Oath of Office they all swore to the City Council Rules, City Charter, and Ethics Ordinance, that Councilor Brown should have recused herself from the vote in question. He commented that Mayor Bouley further indicated that the Board of Ethics did not have a full slate of members, and asked the Rules Committee to hold off on referring the infraction to the Board of Ethics until the next Rules Committee meeting, allowing vacancies to be filled on the Board. Mr. Herschlag noted that Mayor Bouley spoke in favor of the referral of Councilor Brown as he indicated, that he felt, that there was a tremendous distrust of the government and that the Council couldn't play into that instead Council should stand in front of the community and show residents that members of City Council would hold each other accountable, so that residents knew that as Council members, they were above the issues of conflicts of interest or improprieties. Mr. Herschlag noted that Mayor Bouley had further stated that Council needed to restore the integrity of the City Council and indicated that a referral to the Ethics Board would show the public that Council would live by their own rules.

Mr. Herschlag stated his opinion that there were numerous omissions that needed to be corrected. He first noted that Mayor Bouley told Councilor Brown that if she wanted to vote that she could at the January 2022 Council meeting. He noted that Mayor Bouley neglected to point out that on August 15, 2015, the City's Ethics Ordinance was revised and the Council intentionally removed any reference to an

apparent conflict of interest. He stated that the only conflict of interest that appeared in City ordinances was one of a financial nature. He stated his opinion that Councilor Brown, an employee of the foundation had no financial interest. He noted that the foundation was not requesting or receiving money from the City, but instead giving the City money.

Mr. Herschlag stated his belief that the reason the Board of Ethics did not have members was because of an ordinance revision, where Council voted to remove all members as of April 12, 2021. He noted that the Mayor and City Manager, with the approval of City Council, had yet to appoint any members. He noted that when the Board of Ethics was approved, the City Council had determined they could not hear referrals or make recommendations to Council, other than complaints that were filed with the City Clerk. He stated that despite his testimony to allow the Board to act as an advisory board, the Council was unwilling to allow the Board the authority to act in that manner.

Mr. Herschlag stated his opinion that if the Mayor was concerned with City Council's accountability and the need to restore the public trust, then he should be willing to abide by Council Rules, City ordinances, and the City's Charter. He noted that the proposed ordinance amendment stated that, "For State of New Hampshire or federal government employment, a conflict of interest shall only arise when the matter before the Public Body involves the State or federal agency or department of which the officer or elected official or officer or elected official's family member is employed." He stated that it completely ignored any conflict that involved the County, of which the Mayor's wife was the Chair on the Board of Commissioner's of the Merrimack County.

Mr. Herschlag noted that there was reference in the Rules Committee January 3rd minutes, to section 53 of the City Charter which stated, "No elective or appointive officer or employee of the City shall take part in a decision concerning the business of the City in which the officer or employee has a financial interest aside from salary as such, direct or indirect, greater than any other citizen or taxpayer." Mr. Herschlag again stated that Councilor Brown had no financial interest in the Library Foundation aside from salary as defined in the Charter. He stated his opinion that Councilor Kretovic's false statements regarding the Library Foundation, at the Council's January meeting, and the subsequent actions and statements by members of the City Council on the Rules Committee, were baffling. He stated that in his opinion, Council members were upset that Councilor Brown won the election over strong supporters of the Mayor and Councilor's pet project, to spend millions of

dollars on the golf course. He speculated that Council was likely upset that Councilor Brown was outspoken when representing her constituents, rather than following along with the Mayor's agenda. He added that Council members might have been embarrassed from past actions taken with the City's ethics code and City Council Rules; noting that it was City Council that specifically removed wording that would have made Councilor Brown's relationship with the foundation a conflict. He stated his belief that the Mayor giving Councilor Brown permission to vote, and no Councilor's objecting to his ruling, was similar to a complaint that he himself filed against Councilor Kretovic that was dismissed. He noted that the Board of Ethics stated that they had no authority to second guess a City Council ruling.

He questioned why Council was attacking a City Councilor who, in his opinion, did nothing wrong, per the rules Council insisted on. He stated that if Council wanted to restore integrity to the City Council then they should follow the rules they have; stop making it difficult for the public to follow Committee and Board meetings, noting that it had been a while where minutes were verbatim. He noted that the recent City Council Priorities meeting was not held at the Council table, but in the back of Council Chambers, where CTV could not and did not record, making it a difficult meeting to access. He stated his belief that all public City meetings should have an audio recording, and found no excuse the City business conducted in public, wasn't available to the public in it's original form. He suggested that Council allow the Board of Ethics to make advisory decisions, to allow for recommendations, before, rather than after a possible conflict. He further added his belief that the Board of Ethics should be allowed to function as an independent entity, rather than under the thumb of City Council.

Councilor Keach asked if, aside from Mr. Herschlag's very angry history with the Council, was he in favor of the proposed change, to which Mr. Herschlag stated his belief that the proposal was done as a vindictive vendetta against a Councilor, and he was not in favor of it, as he felt it was rushed and made no sense.

Councilor Fennessy stated his confusion over Mr. Herschlag's testimony, and asked Mr. Herschlag what he wanted to see Council do. Mr. Herschlag stated his belief that Council should take the individual Councilor out of the mix, and look at changes to the rules that made sense to Council, as a whole.

Councilor Bouchard stated that the Rules Committee met to clarify and clearly define what a conflict of interest was and in no way acted in a vindictive manner.

She stated that her intent was to make it clear for everyone what a conflict of interest was, so that discussion similar to the one Council had on January 10th was not an issue. Mr. Herschlag responded that, in his opinion, if that was the intent, then per the changed rules from 2012 and 2015, Councilor Brown was not in conflict as no conflict existed. He stated that from his perspective, the talks of making referrals against Councilor Brown, made him believe that this was not a simple revision, it was an attack.

Councilor Rice Hawkins asked Mr. Herschlag, if based on the concerns raised by Mr. Lewis and himself, should the proposed ordinance changes be referred back to the Rules Committee for further work and public comment, to which Mr. Herschlag replied, that at a minimum, yes. He noted that it should be reviewed thoroughly to address the personal issues and over reaching language.

Councilor Kretovic asked Mr. Herschlag, hypothetically, if Councilor Brown's husband should receive additional compensation if the City Manager received greater compensation, in his performance evaluation, at the end of the year. Mr. Herschlag stated that he couldn't imagine why he would, to which Councilor Kretovic agreed. She asked Mr. Herschlag if members in the community would think that if the City Manager received a favorable compensation, that her husband would also receive favorable compensation, because she voted in favor of it. Mr. Herschlag stated that he was unsure of what Councilor Kretovic was getting at, but noted that her scenario presented an apparent conflict, which was removed. Councilor Kretovic stated her belief that it was about transparency, to which Mr. Herschlag stated his opinion that it was not, as the current rules were about financial conflict, and the transparency of financial conflict. Councilor Kretovic disagreed.

Councilor Fennessy stated that he was less concerned over the "Councilor Brown conflict," and was more interested in the concerns raised by Mr. Lewis. He asked if Mr. Herschlag thought that Council should take action to make changes, to avoid situations, where there could be a conflict, for example in which a Planning Board member took off their hat as a Planning Board member and showed up to represent a client before the Planning Board. Mr. Herschlag stated his absolute agreement with the revisions, as he felt that an acting member of a board should not also be allowed to represent someone before that same board, as he felt that there was no way to avoid a conflict, and remove prejudice or bias. He noted that a caveat would be that a board member could represent someone on an entirely different board.

Mayor Bouley thanked Mr. Herschlag for speaking, stating that it was good to have him back. With no additional testimony, Mayor Bouley closed the public hearing.

- 20E. Resolution appropriating the sum of \$4,567,295 for revenue replacement and accepting the sum of \$4,567,295 in American Rescue Plan Act (ARPA) funds for this purpose; together with report from the Deputy City Manager Finance.

**Action:** City Manager Aspell stated that the City of Concord was a Non-Entitlement Unit and was set to receive a total of \$4,567,295 over two years. He stated that the City received its first installment of \$2,283,647.65 in July 2021 and the second installment was anticipated to be received in June or July of 2022. He noted that according to the U.S. Treasury, the Corona Virus State and Local Fiscal Recovery Funds provide eligible local governments with a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, and more equitable economy as the country recovers. He noted that the City had completed the revenue replacement calculation based on the Treasury's guidance and \$4,149,956 was eligible for revenue replacement under the preliminary guidance, which left \$417,339 available for other uses.

City Manager Aspell stated that subsequently, the US Treasury announced in their final rules, that "the final rule offered a standard allowance for revenue loss of \$10 million, allowing recipients to select between a standard amount of revenue loss or complete a full revenue loss calculation. He stated that City Administration recommended using the \$10 million standard allocation method for reporting purposes. He noted that the revenue replacement amount of \$4,567,295 was recommended to be allocated across the following funds:

1. General Fund \$3,030,523
2. Parking Fund \$876,715
3. Airport Fund \$31,498
4. Arena Fund \$179,596
5. Solid Waste \$386,000
6. Water Fund \$62,963

City Manager Aspell stated that using the allowed revenue replacement method of accepting the ARPA funds would provide the City Council the greatest amount of flexibility to direct spending on pertinent programs and uses for the General Fund and all other applicable funds. He stated that Council was not approving any specific appropriations, rather it was making the funds available for future use, and would help keep the tax rate down.

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

- 20F. Resolution appropriating the sum of \$3,800,000 for the Hall Street Wastewater Treatment Facility Secondary Clarifier Upgrade Subproject (CIP #104), accepting the sum of \$760,000 from the NH Department of Environmental Services American Rescue Plan Act (ARPA) program, and authorizing the issuance of bonds and notes in the sum of \$3,040,000 for this purpose; together with report from the General Services Director.

**Action:** City Manager Aspell stated that the General Services Department had been working with the New Hampshire Department of Environmental Services (NHDES) since the spring of 2021 and in November 2021, the Department was notified that the NHDES had reserved \$760,000 in grant funding for the replacement of three secondary clarifiers at the Waste Water Treatment Plant. He stated that the total cost of the secondary clarifier replacement project was approximately \$3,800,000 as estimated by the City's consulting engineer. He stated that the secondary clarifier replacement projects were originally scheduled in the CIP plan for the Wastewater Division in FY 2023, FY 2024, and FY 2025 with one clarifier scheduled to be completed in each fiscal year, but noted that in order for the City to take full advantage of the ARPA grant funding being offered, the NHDES required that the entire project be funded under a single appropriation.

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

- 20G. Resolution appropriating the sum of \$144,000.00 for overtime compensation and fringe benefits to support Fire Department staffing and authorizing the use of \$144,000.00 from fund balance for this purpose; together with report from the Fire Chief. (Public testimony received.)

**Action:** City Manager Aspell reiterated that the Fire Department had been taking steps to improve service delivery capabilities. He noted that the next step in the improvement process was to maintain existing staff at 20 personnel on duty at all times and redistribute resources in the City. He stated that an ambulance would be moved from the Manor Fire Station to Central Station to balance workloads and improve ambulance response times to areas of highest demand. He noted that this would increase the ambulance response times to some of the areas served by the Manor Fire Station, and would increase the minimum staffing of the engine at the Manor Fire Station from three personnel to four, and would remain at the advanced life support level, as often as possible. He stated that if approved by Council, the Fire Department would only require the addition of four personnel in FY 2023 to staff a fourth ambulance instead of needing to add eight personnel.

Councilor Champlin asked for clarification on the amount of service the ambulance at the Manor Fire Station provided to the Northern part of the City versus being deployed to other parts of the City, to which Fire Chief Brown stated that a great visual representation was presented to Council last month, and referred everyone to page 18 of that report. He noted that the vast majority of cases were in the Downtown area and then south of the Manor Fire Station. Fire Chief Brown stated that moving the ambulance was not the best solution, but it was the best solution with current resources as currently funded.

Councilor Champlin asked, as a follow up, to clarify if the displacement allowed the City to provide more services where needed, to which Fire Chief Brown confirmed.

Councilor Matson asked to clarify what the increased service times were, for areas North of the Manor Fire Station due to the displacement, to which Fire Chief Brown stated that the times were not known, but noted that the ambulance was often deployed elsewhere in the City. As a further clarification, Fire Chief Brown confirmed that by centralizing the ambulance, it gave greater response time flexibility to a larger area. He also confirmed that by shifting the workload, it balanced other resources in other areas with higher demand.

Councilor Fennessy asked if there was known data on how often the ambulance was in the Manor Fire Station, versus being on another call. Fire Chief Brown confirmed that it was approximately 53% of the time when responding to two or more calls, and noted that the specific data was collected and could be shared with Council at a later time, as he did not have it available.

Councilor Keach thanked Fire Chief Brown for his service and wished him well on his future endeavors. He asked if it was possible to staff EMS in key peak time frames and increments, to which Fire Chief Brown stated that the peak load concept had been looked at, but felt that the conversation would be better to have over the fifth ambulance, not the fourth.

Councilor Pierce asked if the proposed change was approved, would the Manor Fire Station remain empty, to which Fire Chief Brown stated no, and noted that currently three personnel were on the fire engine and two were on the ambulance, of which one was a paramedic. He stated that the change would shift the ambulance, and four personnel would be on the fire engine. Fire Chief Brown stated that they had 20 personnel when everyone was on duty, but that drops due to sick leave, vacations, which results in reduced overtime. He stated that having 20 personnel would allow the Department to keep 20 people on duty and four people on the fire engine at the Manor Fire Station, of which one would be a paramedic. He noted that while the response time of the ambulance might increase significantly in some parts of the City, the availability of Advanced Life Support (ALS) would be more consistent there, because the fire engine would not typically be transporting to the hospital, so the paramedic would be available more often. Fire Chief Brown reiterated that this was not the best or most ideal solution, but it was the best with current resources and staff.

Councilor Pierce asked Fire Chief Brown to clarify what the ideal solution would be, to which Fire Chief Brown stated that adding a fourth ambulance, that was staffed full time, along with fully staffed fire stations, full time, would be the best solution as it would greatly improve response times and improve services provided by the City. He stated that most staff were multi-trained in all hazard responses, which resulted in more consistent services.

Councilor Pierce asked to confirm if increased response time data could be provided for the Northern parts of Wards one, two, three, and ten, that were currently serviced by the Manor Fire Station, to which Deputy Fire Chief Chisholm stated that the requested information should be accessible and could be provided to Council at a later time.

Councilor Champlin asked if updated call volume data could be shared, as it was last reported between 15-20% above the prior year's data, to which Fire Chief Brown confirmed that call volume data continued to track 20% higher than the benchmark from last year's data, and added that 2021 was their busiest year ever,

in the history of the organization. He noted that whatever the cause for the increase in the trends, it did not appear to be subsiding.

Councilor Champlin asked, as a follow up, if EMS or ambulance calls continued to make up the previously reported 60% of all calls, to which Fire Chief Brown confirmed, noting that it was increasing and was now around 69-70%. Councilor Champlin asked to clarify if with all the increased call volumes, was staff getting the time needed for training and certifications. Fire Chief Brown noted his appreciation for the question and stated that no they did not, which was a strong point he continued to advocate through all discussions. He stated that current call volumes impacted training and did prevent some personnel from getting the full experience of a career in fire based EMS. He noted the importance of personnel becoming the future leaders of the organization, and that service and delivery were part of it, advocating the leadership succession component and a quality of work life. Fire Chief Brown stated that providing high quality service for the community and providing a high quality of work life for personnel were the corner stones of what he did.

Councilor Champlin let Fire Chief Brown know that he would truly miss working with him and extended his appreciation and thanks for his service.

Councilor Keach asked Fire Chief Brown if the mutual aid situation was equitable in terms of the surrounding communities, as he felt is seemed up sided, to which Fire Chief Brown noted that Deputy Fire Chief Chisholm could speak on specific report data, but stated that about 10% of Bow's call volume was for mutual aid for the City of Concord. He noted that some other communities may have needed more aid from Concord, but Concord needed aid from others. Councilor Keach asked, as a follow up, for an estimate of the times Concord provided aid out of town, to which Deputy Fire Chief Chisholm stated that it was approximately 2%.

Councilor Todd asked to confirm what the percentage was, for the City as a whole, to potentially experience diminished services, as a result of the ambulance move, to which Fire Chief Brown stated that the majority of the City would actually see an increase in service, noting that the North and West parts of the City would likely see diminished services.

Councilor Todd noted that residents were concerned about the proposed change, and asked if there were other scenarios, aside from purchasing a new ambulance, where the current ambulance could remain at the Manor Fire Station, to which Fire Chief Brown stated no. Fire Chief Brown stated that he had submitted a PCR in

the last fiscal year, but the ambulance request was not approved. He noted that City Administration picked everything apart, looking at every possible scenario, but felt that this proposal, without adding personnel in the middle of a fiscal year, was the best solution available. Councilor Todd asked, as a follow up, if adding more staff, specifically one more person was an alternative viable solution, to which Fire Chief Brown said that yes it was an option, but had not been considered. He noted that adding one additional person would help and also would allow for the staffing of a fourth ambulance.

Councilor Todd extended this thanks and appreciation to Fire Chief Brown for his years of service.

Councilor Kretovic thanked Fire Chief Brown for his service. She stated that the report mentioned that the proposed change would allow staff to "remain at the advanced life support level as often as possible," noting that the majority of City call time responses were unknown, but could be much higher for rural residents, especially by moving the ambulance from Manor Fire Station. She stated her belief that it was not the core part of the City that concerned her, but the outer areas, and asked for clarification on how the outer area residents would be served, in the best way possible, so that a seven to ten minute response time, which was already too long, did not turn into 15 minutes or longer, to which Fire Chief Brown stated that the best solution was to add a fourth ambulance.

Councilor Nyhan asked to clarify how many calls were made for inbound mutual aid, if 212 calls were received for outbound mutual aid in the same period of time. Fire Chief Brown clarified that the statistics were for EMS mutual aid only and did not include fire calls. Deputy Fire Chief Chisholm stated that 203 mutual aid calls were made, but noted that only 154 were received because existing Concord ambulances were able to clear the hospital and respond faster.

Councilor Keach asked to confirm that his prior questions were answered with EMS only data, to which Fire Chief Brown confirmed. Councilor Keach asked to have data shared the reflected solid numbers on all mutual aid provided inbound versus outbound, as he felt it was an important number to understand. Fire Chief Brown confirmed that the information would be shared.

Councilor Rice Hawkins asked to clarify what the anticipated costs would be if the ideal solution was to get a fourth ambulance, to which Deputy Fire Chief Chisholm stated that it would cost \$1.1 million.

Mayor Bouley asked to clarify if the \$1.1 million figure encompassed the purchase of the ambulance and staffing and overtime to run the ambulance, to which City Manager Aspell confirmed. Mayor Bouley asked to confirm that the proposed figure included both Capital and personnel costs, to which Fire Chief Brown confirmed, noting that purchasing the additional ambulance and increased staff were needed. Fire Chief Brown noted that initially a reserve unit would be used, but ultimately two reserve units would need to be maintained. He recognized ongoing supply chain issues as posing issues for the Capital expense.

Councilor Rice Hawkins asked to clarify what the costs associated with adding an additional staff member, to maintain 21, to which Deputy Fire Chief Chisholm stated that the FY 2023 amount would be \$900,000 total. He noted that to immediately add one additional person, excluding the purchase of another ambulance, the wage amount would be roughly \$1.1 million split to be \$250,000 in FY 2022 and \$890,000 in FY 2023.

Councilor Pierce asked if the increased personnel cost negated the need for the requested \$144,000, to which Fire Chief Brown noted that it was all inclusive, so the rough amount would be the \$144,000 and an additional \$140,000.

City Manager Aspell stated, as a point of clarification, that the proposed changes would cost \$144,000 in the current fiscal year, and that annualized, on a reoccurring basis, the amount would be roughly \$400,000. He stated the step above that change would be to add a fourth ambulance, the amount would roughly be \$800,000 along with the purchase of the ambulance. He noted that roughly speaking, making the more expensive change would result in a 1-2% tax rate increase for the community.

Councilor Pierce asked to clarify how long the staffing levels remained at 20, to which Fire Chief Brown stated that it had been that way since 1995.

Mayor Bouley opened the public hearing.

Representative Safiya Wazir stated that she represented District 17 and Ward eight. She spoke in support of maintaining staff levels and an increase as needed. She stated hearing crisis stories, from her constituents, on a regular basis, where emergency personnel were expected to respond and help. She stated her belief that this was a life and death issue for the Concord community. She noted that the amount of calls for professional fire fighters had increased by 2,000, within the last eight years. She noted her opinion that the pandemic had taken its toll, but also

showed who the essential workers were. She stated her appreciation for the ambulance care that she had received a few years prior, noting that even with broken English and in a panic, essential care services arrived on time, saving her. She stated her belief that sending help quickly, not delaying service at the dispatchers, and having adequate staff were crucial. She noted that she had seen it take as long as 30 minutes for help to arrive, which was a concern for many. She reiterated that the City needed adequate equipment and staffing, noting that the City had an aging population; referencing the Heights and State House; stating her opinion that with age came additional health complications. She asked Council to not let fire fighters and EMT staff suffer from burnout from the lack of adequate staffing, and advocated for increasing both staffing and resources needed.

Councilor Pierce asked Representative Safiya Wazir if she was in support of Council approving the \$144,000 expense, that also included moving one ambulance from one station to another, to which Representative Safiya Wazir confirmed.

Tim Ames, a Concord resident and full time fire fighter in a northern town, stated that he was surprised to see that Concord had not increased its staffing while other towns and communities had. He noted that in his opinion, it was amazing to see Concord staff doing the same job as others with less people, especially with their increased call volumes. He mentioned increases in opioid problems, homeless problems, and an aging population, and felt that increasing Concord staffing was the only way to truly combat those issues. He stated that as a Concord tax payer, he was in full support of adding another ambulance. He noted his recent need for an ambulance, and noted that they did a great job.

David Leathers, a Concord Ward One resident and full time fire fighter paramedic, in a neighboring community, stated that a problem was clearly identified, referencing Concord's doubled call volume rates within the last 25 years paired with unchanged staffing levels in the last 27 years. He stated his opinion that not increasing staff, in the industry, was unheard of, but felt that there was an opportunity to correct it. He noted his belief that playing catch up and moving ambulances didn't solve the problem or increase services to the City, it just shifted it. He stated that there was a clear need for and to staff a fourth ambulance, and felt that there were not enough ambulances to cover the City.

Allen Herschlag, a Concord resident, asked Council to not support this proposed change. He noted that there was an apparent need made known for a fourth ambulance, prior to COVID-19, and speculated that this proposed change was likely to put pressure on Council and the community to fund it, which in his

opinion, was something that should have already happened. He asked Council to not put the residents of Penacook at greater risk, noting that "shuffling deck chairs," did not solve the problem. He noted his opinion that mutual aid and the loss of revenue shouldn't dictate policy for how best to serve and protect Concord communities. He closed by again reiterating to Council, "Do not do this."

Wendy Follansbee, a Penacook resident, spoke against taking the ambulance out of Penacook, stating that it made her feel unsafe. She noted that with an aging population and an increase in residents due to additional housing, she felt that this was a mistake.

Councilor Rice Hawkins noted that the prior speaker stated that this situation was like, "shuffling deck chairs on the Titanic," and asked if Ms. Follansbee was in support of adding an additional ambulance, to ensure Citywide coverage. Ms. Follansbee confirmed that she was and agreed to pay more for it, especially if that was what it took to feel safe.

Tony Bourque, a retired Concord Fire Captain paramedic and former Public Safety Board member, spoke in opposition of the proposal. He stated that, in his opinion, the Manor Fire Station did not exist because of call volumes, but because of response times, especially to the edge of the City. He noted his belief that adding another ambulance was the solution, especially with Concord's increased population, high density housing, and increased calls for services. He noted that in his experience, adding an additional staff person was a band-aid fix, and had been tried, in the past, unsuccessfully. He reiterated that, a fourth ambulance was needed 20 years ago, just as it was needed now, and stated his belief that now was the time. He noted his belief that by taking the ambulance out of Penacook, it gave the perception of "short-changing" Penacook once again and was putting one Ward against another.

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

- 20H. Resolution appropriating the sum of \$88,575.00 for bumpout construction and associated drainage improvements in conjunction with the Annual Highway Improvement Project (CIP #78) and authorizing the use of \$88,575.00 in Highway Reserve Funds for this purpose; together with report from the Senior Planner on behalf of the Transportation Policy Advisory Committee.

**Action:** City Manager Aspell stated that the Planning and Engineering Divisions, in conjunction with the Transportation Policy Advisory Committee, and the Bicycle and Pedestrian Subcommittee thereof, had been studying the projects listed in the paving program (CIP 78) for opportunities to make improvements on streets scheduled to be reclaimed. He stated that TPAC had reviewed the South and S. State Street corridors and recommended improvements at the following intersections:

1. S. State & Fayette (Pedestrian Master Plan Recommendation)
2. S. State & Thompson (Pedestrian Master Plan Recommendation)
3. S. State & Concord (Pedestrian Master Plan Recommendation)
4. South & Fayette
5. South & Thompson (Pedestrian Master Plan Recommendation)
6. South & Concord

City Manager Aspell stated that the improvements would include construction of curb/sidewalk “bump-outs” on the southern side of the six intersections along with any necessary drainage improvements. He noted that on October 13, 2021, a Neighborhood Meeting was held at Abbott Downing School to solicit public input on the intersection improvement concepts. He noted that the City had received bids for the FY 2023 Paving Project, with a total cost of the project estimated to be \$2,193,890. He noted that the bump-outs including five new trees, and had been bid as an alternate with a total price of \$ \$88,575, which was a 4% addition to the project budget. He proposed to fund these improvements with Highway Reserve funds.

Councilor Champlin asked if the referenced trees were to be native shade trees, to which City Manager Aspell noted that he thought yes, and Deputy City Manager Development Baia confirmed yes.

Mayor Bouley opened the public hearing.

John Gaudet, a Concord resident, noted that with all the discussed budget items, he asked that Council take a look at items that were truly needed versus the things that were wanted. He noted that with discussions over a potential 2% tax increase for an ambulance, which in his opinion was clearly needed, bump outs for trees were not. He stated his belief that if the roads needed to be paved, pave them, but asked Council to avoid the extra frills, especially with inflation increasing.

Councilor McLaughlin asked Mr. Gaudet if he had walked those sidewalks, to which he responded that he was happy if sidewalks were fixed, but stated his opinion that the trees should be removed and not replanted as they would grow to cause the same problems. He stated that he lived in a place that did not have sidewalks and understood the need for sidewalks, but felt that it came down to the necessities right now.

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

- 20I. Resolution appropriating the sum of \$26,000 in the Granite United Way grant project for overtime and fringe benefit expenses incurred by the Police Department for Adverse Childhood Experience Response Team (ACERT) Program activities and accepting the sum of \$26,000 in funding from the ACERT Program administered through Granite United Way for this purpose; together with report from the Deputy Chief of Police.

**Action:** City Manager Aspell stated that the Concord Police Department had played an integral role in the development of the Adverse Childhood Experience Response Team Program. He noted that the program was designed to establish a team approach to serve and offer resources to children who had been exposed to violence. He noted that the teams included members of law enforcement, mental health providers, social workers and crisis counselors. He stated that the team had responded to incidents where children were exposed to violence, assessed the situation and determine next steps that could be taken for the child, such as support groups, mental health counseling, early childhood education, or child-parent psychotherapy.

Councilor Brown stated that she would recuse herself from voting on this item, as her husband might benefit from the proposed funds.

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

- 20J. Resolution modifying the Elderly Exemption for the City of Concord pursuant to the provisions of RSA 72:27-a; together with report from the Director of Real Estate Assessments.

**Action:** City Manager Aspell stated that based on the report from the Tax Exemption Policy Committee, revisions were recommended to increase the current elderly income and asset threshold, and exemption amounts. He stated that the Committee recommendation was to make no changes to the blind exemption, veteran credits, and no adoption of RSA 72:85.

Mayor Bouley noted that he supported this proposal, and asked City Manager Aspell to clarify what the new non-taxable property percentage would be, noting that it was currently 30% with religious affiliations, institutes, non-profits, etc. Mayor Bouley noted that the elderly exemption was important, but wanted to let people know how much was being covered, as there were ongoing conversations about Fire and Police staffing expense needs. City Manager Aspell stated that he would work with Finance to calculate the amount for consideration during budget season, noting that it was a significant amount of dollars. City Manager Aspell noted that once exemptions and credits were given out the cost amounts weren't reduced, the costs were instead transferred to others.

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

- 20K. Resolution appropriating the sum of \$200,000 for improvements to the State Street Parking Garage (CIP #432) and authorizing the issuance of bonds and notes in the amount of up to \$200,000; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

**Action:** City Manager Aspell stated that the City's consultant, HL Turner Group, was finishing up a comprehensive needs assessment for the State Street Parking Garage facility. He stated that their review determined that the garage required \$200,000 in immediate repairs. He noted that the repairs are generally focused on removal of additional loose overhead concrete, replacement of a severely deteriorated expansion joint on the main level of the facility, as well as temporary stabilization of stair towers.

City Manager Aspell noted that it was anticipated that the HL Turner Group's comprehensive needs assessment would be completed later this month, following which the report's findings and recommendations would be reviewed with the Parking Committee for their input. He added that the report's recommendations would also be incorporated into the upcoming FY2023 Budget's Capital Improvement Program. He stated that it was important to start the improvements now for safety issues but also because of supply chain issues.

Councilor Fennessy asked City Manager Aspell if there would be any immediate risk if the funds weren't appropriated for the proposed repairs, to which City Manager Aspell stated that there would be a much greater cost because of the continued deterioration, noting that this proposed figure would be much smaller now. City Manager Aspell clarified that the funds for this would come from the Parking Fund and not the General Fund.

Councilor Fennessy noted that the current Parking Fund was operating in the red and was anticipated to do so for a while, to which City Manager Aspell noted that was the case, unless Council voted to use some of the American Rescue Plan Act (ARPA) funds to help offset the expense. He stated that the Parking Fund was not doing well because people weren't using the parking garages or parking spaces, for the last two years, as they normally would have, pre COVID-19.

Councilor Fennessy asked if the City had seen an up tick in paid parking usage in FY 2022, to which City Manager Aspell confirmed yes, noting that it was significant. Councilor Fennessy asked if the usage was back at 2019 levels, to which Matt Walsh, the Director of Redevelopment, Downtown Services, and Special Projects, stated that the Parking Fund was \$388,000 ahead of the previous fiscal year, which were not at pre-COVID-19 numbers, but were much improved over FY 2021.

Mayor Bouley clarified that the report by HL Turner was not shared with Council, as it was shared with the Parking Committee, and noted that some of the pictures would strongly encourage Council to make the much needed changes. Matt Walsh, the Director of Redevelopment, Downtown Services, and Special Projects, stated that if improvements weren't made, parts of the garage would need to be closed immediately.

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

### **Public Hearing Action**

21. 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:** Mayor Bouley recessed this item for action to be taken in April.

22. Ordinance amending the Code of Ordinances, Title III, Building and Housing

Codes; Chapter 26, Building Regulations, Article 26-9, Demolition Review; together with report from the Heritage Commission.

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

Councilor Kretovic noted that this change was one that the Committee had been discussing for six years, in which they agreed that a 60 day delay would help the clerical and administrative side of reviews. She stated that the Heritage Commission was ambitious to make their website available and pursue other options to proactively "move the needle," in preservation of historic structures. She strongly endorsed her support on the item.

Mayor Bouley noted that he didn't think the ordinance needed to be revised more, he felt that the Committee needed to be more proactive with land owners and developers, and strongly encouraged pursuing that instead.

23. 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, by adding a full-time Assistant Golf Professional; together with report from the Deputy City Manager Finance.

**Action:** Councilor Kretovic moved approval. This motion was duly seconded and passed with a roll call vote.

Councilor Nyhan noted that while this was a revenue neutral item, he endorsed his support as it encouraged the increase in revenues. He noted that if the numbers reflected it differently that it would be revisited in the future.

Councilor Brown stated that she was voting against the proposed item. She noted that testimony received reflected the importance of having qualified individuals and staff shortage issues, as well as, the importance of spending to tax payers. She noted that while the golf course was great, she had heard from families that they really wanted to see the pools open longer. She speculated that with increased gas prices families would be looking for more local recreation opportunities. She stated that she would rather see available recreation dollars go toward higher pay for life guards and extending the pool hours longer. She noted that the golf course was open 28 weeks and projected 30,000 rounds, while the pools were open eight weeks and expected 20,000 swimmers. She stated her belief that pools had more usage by tax payers and noted that most of the golf course users referenced in the report were private and did not have to worry about paying for ambulances, while the City did. She stated that Council had to answer to tax payers and reiterated that she would not support the ordinance.

Councilor Rice Hawkins stated that she had similar concerns, noting that at the City Council Priorities setting agenda, there were discussions about keeping the pools open and potentially increasing salaries to attract more life guard candidates, and felt that needed to be addressed. She noted that she was sympathetic to issues over recruiting part time staff to fill positions, but was concerned that this position was being changed to full time only to attract someone, not because of the demand.

Councilor Nyhan clarified for members of the public, that the money being proposed for this position could not in any way be used to fund the pools as it was being funded from the Golf Fund. He noted that the points for the pools were valid, but reiterated that the Golf Fund money could not be used for anything other than golf course operations.

Councilor Rice Hawkins asked for a point of clarification, asking Councilor Nyhan if that decision was in Council Rules or if there was some law outside of Council Priorities, that stated those funds were for that use. Mayor Bouley noted that Deputy City Manager Finance LeBrun would speak to Special Revenue and

Enterprise Funds, etc.

Deputy City Manager Finance LeBrun stated that the City had a number of different Funds, the main one being the General Fund. He noted that there were also Special Revenue and Enterprise Funds that were established to completely self support themselves. He noted that while at times the Special Revenue Funds didn't fully support themselves, they were established to use user fees in order to support the Fund's overall operation, on an ongoing basis. He noted that the Golf Fund didn't have a transition of dollars on a regular basis to or between the General Fund, unless it was an overhead charge, noting that one account of money was not associated with the other account as it was a different source and category associated with operations, and was funded through the tax base and other revenue streams.

Councilor Rice Hawkins, as a follow up, asked where the money was pulled from if a Fund fell short, to which Deputy City Manager Finance LeBrun noted that it would need to be determined if the amount would be taken from the fund balance or if there another funding source, like the General Fund, in order to help to maintain the fund. He stated that there were many occurrences where funds needed General Fund allocations, which Council approved, over the years. He noted his opinion that the Golf Fund currently had a sufficient fund balance to support the operation and support the position change.

Councilor Pierce asked to clarify if or when the Special Funds had a surplus, did they go into the General Fund, to which Deputy City Manager Finance noted that City Council could approve a fund appropriation and transfer from one Fund into the General Fund. He noted that this process was done on an annual basis, through an overhead charge, which covered some of the General Fund services and expenses.

Councilor Kretovic asked to clarify if the current Golf Pro made \$12 and hour, to which Deputy City Manager Finance LeBrun confirmed. She asked if re-hired for winter operation, was the rate \$12 an hour, to which Deputy City Manager Finance LeBrun confirmed. She asked to confirm that on an annual basis, that same position would make approximately \$24,000 gross and without benefits, to which Deputy City Manager Finance LeBrun confirmed. She asked if Deputy City Manager Finance LeBrun considered that a livable wage in the City of Concord, to which he noted his belief that people would struggle. She asked if by elevating the position to a full time one with benefits, for a qualified Golf Pro, would he consider it to be a livable wage, and Deputy City Manager Finance LeBrun stated that he

would consider it a livable wage.

Councilor Rice Hawkins noted that having discussions on salaries was important and advocated for having a Council Priority around it.

Councilor Fennessy stated that he supported the ordinance and found that it was a management issue. He noted that currently the golf course operated with one Director overseeing everything, who also served as the Golf Pro, with no assistant. He advocated for changing the position to a full time one so they could fill the vacancy and improve operations.

Councilor Rice Hawkins asked, for transparency sake, how many members of the Council were also golf club members. Councilor Kretovic clarified that memberships weren't paid until April, and asked if anyone considering membership was also being asked, to which Councilor Rice Hawkins stated that she would leave that to the individual to decide.

Councilor Kretovic stated that she was a 25 year member of the Beaver Meadow Golf Course.

Councilor Keach stated that he was not going to answer because he felt that it was an inappropriate question.

Councilor Fennessy, Councilor Champlin and Mayor Bouley confirmed that they were not members.

Councilor McNamara stated that she was not a member, but had taken lessons, and found that it took a while to get in and encouraged opportunities to increase services provided.

Councilor Brown asked Deputy City Manager Finance LeBrun to clarify what would happen if the position was not funded, to which he stated that without an assistant Golf Pro helping the Director of Operations, there would be a significant negative impact on overall operations. He stated that with the increased number of events and daily golf play, it would stretch the Director of Operations in an unmanageable way, noting that the amount of hours needed to maintain operations would be too much on one person. He speculated that customer service would suffer, there would likely be a decrease in revenue, there would be more unhappy customers, and customers would wait longer to get lessons.

Councilor Rice Hawkins noted that it seemed like the Director of Operations and the assistant managed a large portfolio, to which Deputy City Manager Finance LeBrun confirmed. She asked if the hiring struggle was because of the search for a PGA trained individual, to which Deputy City Manager Finance LeBrun noted that it was only part of the issue, stating that hiring part time people was very difficult when full time options were available, especially when all the required responsibilities exceeded the pay.

Councilor Rice Hawkins asked, as a follow up, if the position had been explored or opened up to someone not PGA certified, as she felt that some of the referenced job functions didn't require a PGA certified candidate. Deputy City Manager Finance LeBrun stated that there were a number of part time positions that existed, but emphasized that the position had a lot of other management operation responsibilities beyond just the lessons.

Councilor Rice Hawkins asked, as a follow up clarification, that having the two positions be PGA certified, it ensured someone certified was available, during business operations, to provide a full range of service, to which Deputy City Manager Finance LeBrun confirmed. Councilor Rice Hawkins stated that she would support this but noted her concerns about making sure that funds were being equally evaluated and advocated for during budget season.

Councilor Brown noted that the Golf Course performed well in FY 2021 and asked to confirm if it had been operating in the black and was self sustaining years prior, to which Deputy City Manager Finance LeBrun noted that there were a number of years where the Golf Fund was not self sustaining and relied on support from the General Fund. He noted that during those years adjustments were made to best manage the expenses. He noted that trying to improve revenue streams and bring new golfers in was a main priority as was providing the best customer service. He speculated that the pandemic crisis brought everything together to help the golf course flourish.

Councilor Brown noted that going to the pools was free and asked for the fee to play golf, to which Deputy City Manager Finance LeBrun stated that without golf clubs, it would cost an additional \$15 rental fee, and it was \$25 after 3:00 P.M. Councilor Brown asked for the cost on a Saturday at 9:00 A.M., to which Mayor Bouley clarified that on Item 16 of the agenda, there was an attachment of Daily Course rates. She reiterated that as a novice she wanted the cost for herself to play, to which Mayor Bouley noted that Deputy City Manager Finance LeBrun didn't have the price list in front of him, so he would walk her through the total cost. They

determined that the cost of Councilor Brown's scenario would be \$82 for eight hours of play. Councilor Brown stated that it cost \$82 to play golf while the pools were free and felt that it needed to be considered.

Mayor Bouley asked Council to support this item as he felt that it made sense coming from the Fund that it did, and noted that with the recent loss of personnel, he felt that the position change could help enhance the customer service. He stated his opinion that the situation wasn't an either or between the arena or golf course or between the golf course and the pools. He stated that they were all really great and important assets for the City. He stated that the City had always invested in neighborhood pools and he personally always supported them, noting that he and City Manager Aspell often fought about keeping the pools open in August every year. He reiterated his belief that the choice didn't have to be an either or as both were important to the community.

Councilor Keach stated that he grew up in Concord, and found that Concord's parks and neighborhood pools were extremely inefficient, but Council always supported them because the neighborhoods wanted and demanded them. He stated his belief that for anyone to suggest that Council chose the golf course over pools was disingenuous. He stated that within his experience, Council was always committed to City parks and pools, which continued.

Councilor Brown asked for a roll call vote.

**Yes:** 14 - Councilor Bouchard, Mayor Bouley, Councilor Champlin, Councilor Fennessy, Councilor Grady Sexton, Councilor Keach, Councilor Kretovic, Councilor Matson, Councilor McLaughlin, Councilor McNamara, Councilor Nyhan, Councilor Pierce, Councilor Rice Hawkins, and Councilor Todd

**No:** 1 - Councilor Brown

24. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, Article 1-6, Code of Ethics; together with report from the Rules Committee. (Supplemental ordinance and report submitted.) (Public testimony received.)

**Action:** Councilor Nyhan moved approval of the supplemental ordinance. The motion was duly seconded by Councilor Matson.

Councilor Bouchard thanked all Councilors who served on the Rules Committee, noting that they met twice, and stated that the Committee worked diligently and hard; looking at the oath taken by Council members, the City Charter, and the rules. She reiterated her belief that the Committee meetings were not vindictive and were only focused on making the rules and conflicts clear for anyone elected, appointed, or sitting on any Board or Committee of their responsibilities and when to recuse. She stated her opinion that the bottom line was that one could not serve two interests or be impartial when there were opposing loyalties.

Councilor Bouchard noted that it was mentioned in public testimony, that the voting issue at the January 10th meeting was over a gift, but questioned what would have happened if the outcome was different with a vote of no. She noted concerns over direct and indirect financial connections. She noted that the Committee did look at the definition of a conflict and noted that although the County was not specifically identified, she felt that the use of language was all encompassing. She noted that it was mentioned in public testimony, about conflicts with spouse salaries, stating that union negotiations were held in non-public discussions.

Councilor Bouchard stated that the City Solicitor was directed to review and draft changes with language of clarity on the identified issues. She noted that the City Solicitor previously held trainings for all advisory board members, city employees, and elected officials, on the Right-to-Know and ethics, and supported having refresher trainings again. She stated that the changes referenced in section 1-6-5 were for real transparency and noted her opinion that transparency in government was important.

Councilor Bouchard asked to have the City Solicitor speak to some of the changes presented, and started with section 1-6-5. City Solicitor Kennedy stated that 1-6-5 was in section three of the ordinance, which referred to representing interests before City agencies. He stated that the fundamental idea was that if one was sitting on a body (Zoning Board, Planning Board, Conservation Commission, Heritage Commission, or any other board) within the City, then they could not speak on behalf of a private party, before that board, while being an active member. He stated that it was fundamental for land use boards (Zoning Board, Planning Board, Conservation Commission) as they were referred to in the ordinance as quasi-judicial, as they acted like courts, as they were required to take testimony,

examine witnesses, and make decisions on applications. He noted potential issues with impartiality and noted his belief that the proposed change was a "house keeping" item as in quasi-judicial conflicts of interest, one was required to leave the room. He clarified that leaving the room did not mean to remain seated at the table and then represent the interest of a third party, it meant to physically leave the room. He stated that recusal was clear as one could not to speak on, communicate, discuss, or introduce any matter that related to the recusal. He stated that in his opinion, if there was any misunderstanding on that process, the amendment made it fundamentally clear, moving forward, that one could not represent private interest before a board in which one was an active member on. He noted that an exemption was made in the event that one had a personal interest, for example, obtaining a zoning permit for their own personal property, as serving on a board did not remove those rights as a property owner. He noted that rights to personal property owners were retained, but the right to represent third parties was revoked.

Councilor Fennessy stated that Mr. Lewis commented that this practice of third party representation was done in other government bodies, and asked if other communities had similar restrictions to the proposed ordinance, to which City Solicitor Kennedy stated his belief that they did. City Solicitor Kennedy stated that he worked with the New Hampshire Municipal Association (NHMA) on reviewing the analysis. He noted that one could read the publications from the NHMA in which quasi-judicial or legislative functions of a body and what the function was once recused, reiterating that for legislative matters one could remain in the room, but for quasi-judicial items one must leave the room to maintain impartiality, if there was a conflict of interest.

Councilor Matson asked, in the situation of Mr. Lewis being a small business owner, if he could not represent a third party client, could a member of his business make a presentation in which he could recuse himself, to which City Solicitor Kennedy stated that the conflicted member would need to leave the room. He stated that the member wouldn't join the presenter causing the conflict, to seek to influence the body, on a quasi-judicial matter. He stated that the proposed clarification to 1-6-5 were to revise and clarify any potential conflicts. City Solicitor Kennedy confirmed that there would be no issue or conflict if Mr. Lewis recused himself and had another member of his business represent a third party before his respected body.

Councilor Keach asked, hypothetically, if a Councilor was required to recuse themselves from conversations about a union that a family member was in, would they also need to be recuse themselves from non-public council meetings where union

contracts were discussed. City Solicitor Kennedy clarified that, in the supplemental ordinance section 1-6-4, anyone having a family member employed by the City, would need to be recused from any discussions on compensation or collective bargaining agreements. He confirmed that non-public meetings would also be included in the proposed changes of 1-6-4 in the provided scenario. He clarified the difference between a conflict of interest was listed in 1-6-3 and the recusal mechanism was listed in 1-6-4, noting that they were referenced in different sections.

Councilor Rice Hawkins asked to clarify further between sections 1-6-3 where a conflict of interest was defined and 1-6-4 which was the mechanism for recusal. She noted that the definition of a conflict of interest was expanded upon further in the recusal section 1-6-4. She noted that a conflict of interest said that a family member who was employed by the City, it would be a conflict if voting on matters towards their salary and benefits, to which City Solicitor Kennedy stated that it also included financial interests of the individual person or family member. He noted that the scope was expanded for an employee of the organization. Councilor Rice Hawkins noted her confusion in section 1-6-4 where it addressed the implementation of a recusal and felt that the definition of a conflict was expanded upon to exclude the right for an officer to vote on any matter related to as it said, "you may not participate in City Council discussions, or otherwise introduce, ask questions, speak or vote relative to collective bargaining or compensation for City employees," noting that it didn't specify a specific department, and continued to say, "but may remain at the City Council table during any such public meeting discussions." She clarified that if conflict was initially defined based on a connection to an employee of a certain department, why was someone being asked to then recuse themselves from any discussion.

City Solicitor Kennedy clarified that section 1-6-4 explained the definition of a financial interest. He noted that the Rules Committee had identified concerns that could relate to collective bargaining discussions and compensation for City employees and/or family members. Councilor Rice Hawkins, as a follow up, asked Councilor Bouchard, as the Chair of the Rules Committee, why the Committee was concerned with the potential for a Council member, with a family member in the Parks and Recreation Department, not being able to vote on things related to General Services if there were no joined or collective bargaining agreements between those two departments. Councilor Bouchard stated that the concern was of a Councilor being in a position on union negotiations that might concern a spouse or family members. She stated that the Committee tried to make it clear that if there was a direct conflict then the Councilor should recuse themselves.

Councilor Rice Hawkins clarified her question, stating that one section clearly defined when a direct conflict existed and was confused why another section went beyond that to no longer need a direct conflict to be excluded from all conversations regarding City salaries and benefits. Councilor Bouchard stated that she did not read it the same way. Councilor Rice Hawkins asked if Councilor Bouchard had an issue with a potential Councilor, with a City employed family member, talking about employees in a different department, if there were no shared collective bargaining agreements, where the Councilor could weigh in on those other departments. Councilor Bouchard stated that it depended on what the conversation was and what the issue was. Councilor Rice Hawkins asked how that point would be defined, to which Councilor Bouchard stated that if a direct conflict of interest or if she thought an indirect conflict existed, she would recuse herself.

City Solicitor Kennedy stated that the language addressed that City Councilors, with City employed family members, were not permitted to participate in collective bargaining or compensation discussions with the City Council. Councilor Rice Hawkins stated that similar to concerns raised in public testimony, collective bargaining agreements and conversations held by Council about staff were not all at once, they were often handled department by department. She asked that if there was no inherent conflict of interest, for an individual, with no family member in a union or City department, then why did the ordinance still restrict the individual from participating in their City Council function. She stated her opinion that it seemed pretty broad. City Solicitor Kennedy stated that, as stated by Council members, there was concern that collective bargaining agreement discussions were often and could be interwoven between units, which is why the Rules Committee decided not to allow one unit to be privy to discussions on another unit, where negotiation strategies could be divulged. He gave the example that a Council member married to someone in the Fire Department might obtain inside information, during collective bargaining with the UAW.

Councilor Rice Hawkins asked to clarify and confirm if there were any other Council discussions relating to salary and benefits, that would not provoke the scenario listed by City Solicitor Kennedy, that would exclude a Councilor. Mayor Bouley stated that Council was only allowed to discuss salary and benefits, noting that they were not privy to any other discussion details around employments.

Councilor Pierce noted that on page three, the line that stated, "considering compensation for any City employee, any member of the City Council whose family member is employed in any capacity with the City of Concord, shall

physically leave the room until consideration of the matter is completed, " He asked to clarify, hypothetically, if his spouse worked for the City in a non-union job, would this change in the ordinance require him to recuse himself and leave the room, when the Assistant Pro job was discussed, even though the collective bargaining agreements were different. City Solicitor Kennedy stated that under this ordinance, Councilor Pierce would not have to leave the room, he would be recused. City Solicitor Kennedy clarified that under the scenario, he'd only have to leave the room if there was a non-public meeting discussing compensation and benefits. In the referenced scenario, Mayor Bouley asked what the conflict was, to which City Solicitor Kennedy stated that it was financial interest of a family member.

Councilor Kretovic noted that in Rules Committee discussions, the current rules were discussed and how they could be improved. She noted, that in the past, there were reasons why members of Council, with family members who volunteered for non-profit organizations, that received money from the City of Concord, needed to be recused. She noted that there were members of Council who were volunteers for non-profit organizations, within the community, that received no financial contributions for themselves, but recused themselves. She noted that there was once a Councilor with a spouse that worked for the school district, noting that when there were discussions about the sale of or agreement on a property with the school district, that Councilor would recuse themselves. She noted that when discussions involving the County, the Mayor would recuse himself. She reiterated that this practice was done under the previous Rules of Council, because of the Charter, Ethics Ordinance, Oath of Office, with no financial interest. She noted that now there were people with financial interest and the Rules Committee attempted to clarify those rules, to which City Solicitor Kennedy confirmed that now the rules have been expanded and clarified the scope of financial interest, of the individual and employed family member, by the City of Concord.

Councilor Kretovic noted that in discussions and review, a conflict existed between the Charter and the Ethics Ordinance, to which City Solicitor Kennedy stated that section 53 of the Charter discussed the direct and indirect conflict of interests, but the indirect reference to family members was not listed in the ordinance.

Mayor Bouley noted that there were some important updates and clarifications to the ordinance and some parts that he needed to think about. He proposed tabling the ordinance for further discussion at the next meeting, so everyone could digest the information and changes, so Council could get it right.

Councilor Nyhan motioned to table the item, which was duly seconded. The motion passed with no dissenting votes.

25. Resolution appropriating the sum of \$4,567,295 for revenue replacement and accepting the sum of \$4,567,295 in American Rescue Plan Act (ARPA) funds for this purpose; together with report from the Deputy City Manager Finance.

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

26. Resolution appropriating the sum of \$3,800,000 for the Hall Street Wastewater Treatment Facility Secondary Clarifier Upgrade Subproject (CIP #104), accepting the sum of \$760,000 from the NH Department of Environmental Services American Rescue Plan Act (ARPA) program, and authorizing the issuance of bonds and notes in the sum of \$3,040,000 for this purpose; together with report from the General Services Director.

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

27. Resolution appropriating the sum of \$144,000.00 for overtime compensation and fringe benefits to support Fire Department staffing and authorizing the use of \$144,000.00 from fund balance for this purpose; together with report from the Fire Chief. (Public testimony received.)

**Action:** Councilor Matson moved approval. This motion was duly seconded.

Councilor Pierce stated that he appreciated all of the work that the Fire Chief and staff did to bring the item forward. He stated his concerns over losing an ambulance at Manor Station and liked Councilor Todd's suggestion of adding an additional person, noting that the City was not ready to purchase another ambulance yet, and recognized that something needed to be done. He reiterated that he did not want the ambulance to leave, and felt that public safety was the most important thing.

Councilor Pierce motioned to appropriate \$1,000,000 to add on another staff person to the Manor Road Fire Station, in order to keep the ambulance there, and have further discussions with the capital budget on buying a new ambulance. The motion was seconded.

City Manager Aspell stated that rather than falsely project the cost to add on a new person, he could present full figures at the next meeting.

Councilor Kretovic noted that the Fire Chief stated that even by bringing on an additional person there would be no apparatus for them to drive. City Manager Aspell stated that the reserve ambulance could be used temporarily, but then an additional \$300,000 would be needed in addition to the estimated \$900,000 to get another ambulance, which could take 18 months to get, and noted that the reserve ambulance would not last 18 months.

Councilor Nyhan stated that there was a lot of compelling information presented and noted that the groundwork had been laid for extensive discussions during the budget review period, for adding another ambulance. He endorsed supporting the Fire Chief's recommendation as drafted and proposed as a first step and budget discussions would be used to discuss the potential 1-2% tax increase and capital costs. He stated that this was a very big decision to be making on the fly at 10:40 P.M., but recognized there was a much larger need.

Councilor Kretovic noted her agreement with Councilor Nyhan, that there wasn't enough data to make a logical decision at the moment. She stated her support for the original motion, but asked the City Administration to provide Council with call service data to that area, detailing call and response times experienced once the ambulance moved.

Councilor Champlin stated that he agreed with Councilor Nyhan, but noted that he was sympathetic to Councilor Todd and Councilor Pierce, and the Northern part of the City. He stated that he has consistently heard, from his constituents, complaints about tax bills, and wanted to see an intentional progression toward a fourth ambulance, which he stated in his opinion was needed, but at a time when all the information was available for review and consideration.

Councilor Rice Hawkins stated that she appreciated the conversation, but felt that Council had the information for a long time. She noted that the former Chief stated that a fourth ambulance was needed 20 years ago, and stated her belief that it was crazy to think of staff not being increased over time despite the increase in calls. She extended her sympathies to Councilor Todd and Councilor Pierce, speculating that her Ward would likely see an increase in service time. She stated that it was a difficult time, with costs increasing, but felt that like other conversations, if the investment wasn't made now, then when. She advocated for giving front line workers the support and resources needed, and supported any action that would start the process of moving toward the purchase of a fourth ambulance.

Councilor Brown stated her agreement with Councilor Pierce and Councilor Rice Hawkins. She stated her belief that the City had the data for a long time and while more information could be collected, she noted that it had been 27 years and speculated that it was long enough. She endorsed her supported taking action tonight and noted her opinion that this was something worth investing in.

Councilor Fennessy stated that he did not support the proposed amendment, but did support the original recommendation made by the Fire Chief. He recognized that there would be a negative impact by moving the ambulance from the Manor Road Fire Station, for a portion of the City, but recognized that per the Fire Chief's testimony, more than half of the City would receive better response times as a result. He noted his opinion that this wasn't ideal, but Council would need to look into the budget of getting the fourth ambulance. He noted that this "stop-gap" proposal was appropriate for the last quarter of the fiscal year.

Councilor Todd stated that he struggled with the proposal because he always voted with the interests of public safety. He noted his concerns about the potential increased response times for Penacook, but felt that all information should have been available prior to the vote. He stated that he supported the Fire Department and wanted to continue, and noted his belief that the conversations held emphasized the area of need. He stated that he wished there were better and more immediate options. He noted that the vote on garage maintenance had been

deferred for years and came back around too.

Mayor Bouley stated his opposition to Councilor Pierce's proposed amendment. He stated that he was looking at everything for the entire City and reminded everyone that the exact conversation would be held in two months. He called for a roll call vote on the amendment.

The amended motion failed with a roll call vote.

**Yes:** 4 - Councilor Brown, Councilor Pierce, Councilor Rice Hawkins, and Councilor Todd

**No:** 11 - Councilor Bouchard, Mayor Bouley, Councilor Champlin, Councilor Fennessy, Councilor Grady Sexton, Councilor Keach, Councilor Kretovic, Councilor Matson, Councilor McLaughlin, Councilor McNamara, and Councilor Nyhan

Councilor Matson's original motion, which was duly seconded, passed unanimously with a roll call vote.

**Yes:** 15 - Councilor Bouchard, Mayor Bouley, Councilor Brown, Councilor Champlin, Councilor Fennessy, Councilor Grady Sexton, Councilor Keach, Councilor Kretovic, Councilor Matson, Councilor McLaughlin, Councilor McNamara, Councilor Nyhan, Councilor Pierce, Councilor Rice Hawkins, and Councilor Todd

28. Resolution appropriating the sum of \$88,575.00 for bumpout construction and associated drainage improvements in conjunction with the Annual Highway Improvement Project (CIP #78) and authorizing the use of \$88,575.00 in Highway Reserve Funds for this purpose; together with report from the Senior Planner on behalf of the Transportation Policy Advisory Committee.

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

Mayor Bouley asked if the money could be instead used to pave a street in Ward six, to which City Manager Aspell stated that the amount was comparable to what a small street paving project would cost.

29. Resolution appropriating the sum of \$26,000 in the Granite United Way grant project for overtime and fringe benefit expenses incurred by the Police Department

for Adverse Childhood Experience Response Team (ACERT) Program activities and accepting the sum of \$26,000 in funding from the ACERT Program administered through Granite United Way for this purpose; together with report from the Deputy Chief of Police.

**Action:** Councilor Nyhan moved approval. This motion was duly seconded and passed with no dissenting votes, excluding a vote from Councilor Brown who recused herself from participating.

30. Resolution modifying the Elderly Exemption for the City of Concord pursuant to the provisions of RSA 72:27-a; together with report from the Director of Real Estate Assessments.

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

31. Resolution appropriating the sum of \$200,000 for improvements to the State Street Parking Garage (CIP #432) and authorizing the issuance of bonds and notes in the amount of up to \$200,000; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

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

Councilor Nyhan stated that this was to keep the garage open, but would not keep the garage open for any specific length of time. He noted that a future report would have more information to drive future Council discussions, speculating that this was a short term spend for a long term problem.

### **Reports**

32. Presentation by City Planner, update on zoning ordinance project.

**Action:** Mayor Bouley moved to recess this presentation until April.

33. Eversource presentation regarding the proposed rebuilding of their P145 Transmission line.

**Action:** Ashley Ruprecht, an Eversource Licensing and Permitting Specialist, and Sarah Hoodwit, an Eversource Project Services Specialist, made a presentation to Council on the Concord to Bow (P145) line rebuild project. An overview of a transmission system was given, showing how electricity was generated and delivered to wherever it was needed. A history overview of the existing P145 line/corridor was shared, noting that a 12.5 mile long power line ran from a substation in Concord to the Merrimack station in Bow. The presentation highlighted project benefits, including improved power system reliability. It was noted that permits were needed and being pulled accordingly on a local, State and Federal level. It was noted that although optical ground wires were called that because they grounded the systems, the lines were actually overhead.

City Manager Aspell thanked the Eversource team for their presentation to Council and to the community. He asked to clarify if the City Council had any role to play in the process other than for informative purposes, to which Ms. Hoodwit noted that any feedback, comments, or concerns would be taken back to the Eversource team for internal consideration. She noted that extensive research and work had gone into the project, noting that they had explanations available to share with specific property owners, and asked that any questions be directed to them. Ms. Ruprecht noted that prior to taking action in Concord, City staff referred them to meet with Council for information purposes, to get the message out there.

Councilor McLaughlin noted that Eversource had excellent communication, with her as a property owner, during the project as it went through her backyard.

Councilor Fennessy asked City Manager Aspell if this upgrade would lead to additional tax revenue, to which City Manager Aspell confirmed.

### **New Business**

### **Unfinished Business**

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

Councilor Kretovic noted that the 2022 SouperFest would be held on Saturday, March 26 from 1:30 P.M. to 4:00 P.M.

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

### **Consideration of Suspense Items**

Sus1 Item Tabled for an April 11, 2022 Public Hearing

Resolution appropriating the sum of \$66,147.38 from the Impact Fee Fund as a

transfer to the General Fund to offset debt service costs and reduce General Fund Use of Fund Balance by \$66,147.38 as an offset for this purpose; together with report from the Deputy City Manager Finance.

**Action:** Councilor Matson motioned to consider Suspense items not previously advertised. The motion was duly seconded and passed with no dissenting votes.

Councilor Champlin motioned to set Suspense Item 1 for a public hearing on April 11th. The motion was duly seconded and passed with no dissenting votes.

Sus2 Report from Councilor Erle Pierce, on behalf of the Ad Hoc Outdoor Dining and Food Truck Committee recommending changes to the City's Outdoor Dining Permit Program.

**Action:** Councilor Pierce stated that the Committee met four times to establish more permanent rules and regulations for outdoor dining activities. He noted that the most important issue or change were the permit fees for sidewalk, City squares, and other right-of-way or City property, with a permit fee rate of three dollars per square foot. He stated that the outdoor dining season would run from April 15th through November 15th and speculated that lost parking revenue would be made up in fees. He noted that compliance with the use of furniture, as outlined in the policy's addendum, was required.

Councilor Fennessy asked to clarify if restaurants that were currently using City property, for outdoor dining, would now have to pay to do so, which Councilor Pierce confirmed, noting yes, at a rate of three dollars per square foot.

Councilor Champlin thanked Councilor Pierce for the report and asked if there was any received feedback from restaurants or patrons, to which Councilor Pierce confirmed yes, through the City's Health and Licensing Office. He noted that feedback was mixed and issues of picnic table use came up, and would be addressed along the way.

Councilor Nyhan asked why the Committee decided to charge a rental fee for parking, less than what it would make in revenue, to which Councilor Pierce stated that the outdoor space had been used for the past couple of years, and the fee of \$1,000 per parking space was a reasonable rate based on the added space to the restaurants. He noted that restaurants could still decide not to have outdoor dining, noting that with it would include water filled barriers, to protect patrons, etc.

Mayor Bouley noted that the \$1,000 rate was determined based on a fair

comparison with other communities, and noted that Concord also asked for a higher standard, recognizing that the restaurants would have to invest in the required upgrades. He extended his thanks and appreciation to City staff for their hard work on the process.

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

### **Adjournment**

**Action:** Councilor Keach motioned to adjourn the meeting at 11:29 P.M. The motion was duly seconded with no dissenting votes.

**Information**

Inf1 December 16, 2021 Airport Advisory Committee Approved Meeting Minutes.

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

Inf2 February 3, 2022 and February 17, 2022 Ad hoc Outdoor Dining and Food Truck Committee Approved Meeting Minutes.

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

Inf3 February 7, 2022 Concord Public Library Board of Trustee Meeting Minutes.

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

Inf4 February 22, 2022 Fiscal Policy Advisory Committee Draft Meeting Minutes.

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

Inf5 Library Fines Amnesty Program & NH Kid Governor.

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

Inf6 Communication from Comcast notifying the City of upcoming programming changes.

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

Inf7 Communication from Eversource regarding Concord to Bow (P145) Line Rebuild Project.

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

Inf8 Merrimack County 2022 Budget Information.

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

*A true copy; I attest:*

*Ashley Hamilton*

*Deputy City Clerk*