



# City of Concord

## City Council

### Meeting Minutes

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Monday, February 13, 2023

7:00 PM

City Council Chambers  
37 Green Street  
Concord, NH 03301

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1. Call to Order.

**Action:** Mayor Bouley called the meeting to order at 7:00PM.

2. Invocation by Reverend Emilia Halstead, First Congregational Church.
3. Pledge of Allegiance.
4. Roll Call.

**Present:** 14 - Councilor Candace Bouchard, Mayor Jim Bouley, Councilor Stacey Brown, Councilor Byron Champlin, Councilor Nathan Fennessy, Councilor Amanda Grady Sexton, Councilor Fred Keach, Councilor Jennifer Kretovic, Councilor Gail Matson, Councilor Karen McNamara, Councilor Keith Nyhan, Councilor Erle Pierce, Councilor Zandra Rice Hawkins, and Councilor Brent Todd

**Excused:** 1 - Councilor Paula McLaughlin

5. Approval of the Meeting Minutes.

January 9, 2023 City Council Draft Meeting Minutes.

**Action:** Councilor Kretovic moved approval of the January 9, 2023 City Council Meeting Minutes. The motion was duly seconded and passed with no dissenting votes.

6. Agenda overview by the Mayor.

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

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

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

**Referral to the Solid Waste Advisory Committee**

7. Communication from Robert Spiegelman requesting consideration be made to reduce the amount of organic food waste in trash.

**Action:** This item was referred to the Solid Waste Advisory Committee.

**Items Tabled for March 13, 2023 Public Hearings**

8. Resolution authorizing the City Manager to enter into a lease agreement with United Therapeutics Corporation concerning Development Zone 3D at the Concord Municipal Airport; together with a report from the Interim Deputy City Manager - Community Development. (Supplemental report and revised lease submitted.)

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

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

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

10. Report from the Director of Real Estate Assessments recommending the City Manager be authorized to enter into a Payment in Lieu of Taxes Agreement between the City of Concord and Briar Hydro Associates for its hydroelectric facilities at the Rolfe Canal Falls, Penacook Upper Falls, and Penacook Lower Falls.

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

11. Report from the Director of Real Estate Assessments requesting the City Manager be authorized to renew the Voluntary Payment in Lieu of Taxes Agreement between Fellowship Housing Opportunities, Inc. and Affiliates and the City of Concord.

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

12. Resolution appropriating the sum of \$150,809.22 as a transfer to the Opioid Abatement Reserve and accepting the sum of \$150,809.22 in Opioid Litigation Settlement funds for this purpose; together with a report from the Deputy City Manager - Finance.

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

13. Resolution appropriating the sum of \$34,000 in the Downtown Complete Streets Improvement project (CIP #460) to purchase concrete barriers to facilitate outdoor dining activities in on-street parking spaces and authorizing the use of \$34,000 from the Economic Development Reserve for this purpose; together with a report from the Interim Deputy City Manager - Development. (Supplemental report submitted.)

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

14. Resolution accepting the terms of both a 2020 and a 2021 Critical Infrastructure/Water-related Catastrophe Equipment grant, appropriating the sum of \$25,000 in the Fire/NH Dept of Safety Grants and Donations project for the purchase of water rescue and related equipment, and accepting the sum of \$25,000 in NH Department of Safety State Homeland Security Program funding for this purpose; together with a report from the Fire Chief.

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

#### **From the City Manager**

15. Positive Citizen Comments.

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

#### **Consent Reports**

16. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$2,177.89, as provided under the pre-authorization granted by City Council.

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

17. Quarterly Status Report from the City Manager on 2022-2023 City Council Priorities. (Pulled from consent by Councilor Brown.)

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

18. December 31, 2022 Fiscal Year to Date Financial Statements report from the Deputy City Manager - Finance.

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

19. Fiscal Year 2022 Annual Comprehensive Financial Report (ACFR) from the Deputy City Manager - Finance.

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

20. Report from the Community Development Specialist and the Interim Deputy City Manager - Development requesting City Council authorize the City of Concord to host the annual Wings and Wheels Event at the Concord Municipal Airport.

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

21. Report from the Ad-hoc Outdoor Dining and Food Truck Committee recommending changes to the City's Outdoor Dining Permit Program. (Pulled from consent by Councilor Nyhan.)

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

### **Consent Resolutions**

22. Resolution repurposing the sum of \$30,025.00 from the Fire Station Improvements Station Location Study subproject (CIP #252) for use on the Fire Station Improvements Station 1 Apparatus Bay Reconstruction subproject (CIP #252); together with a report from the Fire Chief.

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

23. Resolution authorizing the City Manager or his designee to apply for grant funding in the amount of \$6,400 through a FEMA Homeland Security grant, when available, for the purpose of conducting a table-top active shooter exercise with Fire and Police command staff; together with a report from the Deputy Fire Chief.

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

24. Resolution authorizing the City Manager to issue a license to the Best Revenge L.L.C. for the installation of an awning within the City's South Main Street rights-of-way at property located at 67 South Main Street; together with a report from the Interim Deputy City Manager - Development.

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

### **Appointments**

25. City Manager's Appointments to the Zoning Board of Adjustment: Christopher Carley, Nicholas Wallner, James Monahan, Andrew Winters, and Laura Spector-Morgan.

**Action:** These appointments were approved.

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

**Public Hearings**

26A. Ordinance amending the Code of Ordinances; Title V, Administrative Code; Chapter 34, Personnel Rules and Regulations, Article 34-10, Attendance; Holidays by adding the observance of Juneteenth; together with a report from the Director of Human Resources and Labor Relations.

**Action:** City Manager Aspell provided an overview of the proposed addition of Juneteenth as an observed holiday.

Mayor Bouley opened the public hearing.

Roy Schweiker, a Concord resident, declared his opposition to the addition of Juneteenth as an observed holiday.

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

26B. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 34, Personnel Rules and Regulations, Article 34-11, Leave; together with a report from the Human Resources & Labor Relations Director.

**Action:** Agenda item number 26B was discussed in conjunction with agenda item number 26C.

City Manager Aspell invited Human Resources and Labor Relations Director Jennifer Johnston to present on these items. Ms. Johnston introduced Audrey Masters who served on the City's Recruitment and Retention Committee.

Ms. Masters discussed the committee's review of recruitment and retention and the committee's discussion of potential changes to the on-boarding process, access to insurance, paid family medical leave, access to annual leave, accrual rates, bonuses, and the addition of referral and sign-on bonuses.

Human Resources and Labor Relations Director Johnston discussed paid family medical leave. The proposal includes a paid leave benefit and helps the City remain competitive in the job market particularly within the State of New Hampshire.

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

26C. Resolution appropriating the sum of \$39,250.00 for Paid Family Medical Leave and \$11,500.00 for referral bonuses as new benefits for City employees and authorizing the use of \$50,750.00 from General Fund Unassigned Fund Balance for this purpose; together with a report from the Human Resources and Labor Relations Director. (Revised resolution and report submitted.)

**Action:** This agenda item was discussed in conjunction with previous agenda item number 26B.

26D. 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; Assistant Information Technology Director; together with a report from the Director of Human Resources and Labor Relations.

**Action:** City Manager Aspell provided an overview of this item which proposes a modification to the schedule and classification of the Assistant Information Technology Director position in order to stay competitive with the current job market.

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

26E. Resolution appropriating the sum of \$250,000 in the Hall Street Wastewater Treatment Plant Renovations project (CIP #104) for the installation of a photovoltaic solar array at the Hall Street Wastewater Treatment Plant and applying for and accepting the sum of \$250,000 from the New Hampshire Department of Environmental Services American Rescue Plan Act program for this purpose; together with a report from the General Services Director.

**Action:** City Manager Aspell provided an overview of this proposed resolution which if approved would allow for funds to be accepted in order to complete the Hall Street Wastewater Treatment Plant Renovations project without affecting the City's rate payers.

Mayor Bouley opened the public hearing.

Robert Werner, chair of the Energy & Environment Advisory Committee, commended the City for its application for funds from the New Hampshire Department of Environmental Services American Rescue Plan Act for the wastewater treatment plan solar project.

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

- 26F. Resolution appropriating the sum of \$100,000 in the Hall Street Wastewater Treatment Plant Renovations project (CIP #104) to conduct a process evaluation at the Hall Street Wastewater Treatment Plant and applying for and accepting \$100,000 from the New Hampshire Department of Environmental Services American Rescue Plan Act program for this purpose; together with a report from the General Services Director.

**Action:** City Manager Aspell provided an overview of the United States Environmental Protection Agency's new discharge permit requirements and need for evaluation of the treatment process at Hall Street Wastewater Treatment Plant. If approved, this proposed resolution would fund the completion of the project at no cost to the City's rate payers.

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

- 26G. Resolution re-adopting the Optional Veterans' Tax Credit for the City of Concord pursuant to the provisions of RSA 72:28; together with a report from the Director of Real Estate Assessments.

**Action:** City Manager Aspell provided an overview of agenda item number 26G in conjunction with agenda item number 26H. The proposed resolutions discuss re-adopting the tax credit and expanding the amount.

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

- 26H. Resolution re-adopting the All Veterans' Tax Credit for the City of Concord pursuant to the provisions of RSA 72:28-b; together with a report from the Director of Real Estate Assessments.

**Action:** This agenda item was discussed in conjunction with agenda item number 26G.

- 26I. Resolution appropriating the sum of \$13,941.00 in the Grants and Donations Fund CPL Foundation project to assist the Library's mission in providing a variety of equitable services to patrons at the Concord Public Library and accepting the sum of \$13,941.00 in donations from the Concord Public Library Foundation for this purpose; together with a report from the Library Director.

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

- 26J. Resolution appropriating the sum of \$75,000 to implement a lead service line inventory and accepting the sum of \$75,000 from the New Hampshire Department of Environmental Services Lead Service Line Inventory Grant Program for this purpose; together with a report from the General Services Director.

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

- 26K. Resolution establishing a Bridge Reserve Fund for the purposes of capital repairs, replacements and/or supplemental funding toward the New Hampshire Department of Transportation Municipal Bridge Aid Program to City bridges as programmed in the annual Capital Improvements Plan (CIP), appropriating the sum of \$1,959,113.76 as a transfer to said Bridge Reserve fund, and accepting the sum of \$1,959,113.76 for this purpose; together with a report from the Interim City Engineer.

**Action:** City Manager Aspell discussed an upcoming, large bridge project and the future use of these funds for that project.

General discussion followed regarding the dispersion of federal funds to the state as well as the state's dispersion of such funds.

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

### **Public Hearing Action**

27. Ordinance amending the Code of Ordinances; Title V, Administrative Code; Chapter 34, Personnel Rules and Regulations, Article 34-10, Attendance; Holidays by adding the observance of Juneteenth; together with a report from the Director of Human Resources and Labor Relations.

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

28. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 34, Personnel Rules and Regulations, Article 34-11, Leave; together with a report from the Human Resources & Labor Relations Director.

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



29. Resolution appropriating the sum of \$39,250.00 for Paid Family Medical Leave and \$11,500.00 for referral bonuses as new benefits for City employees and authorizing the use of \$50,750.00 from General Fund Unassigned Fund Balance for this purpose; together with a report from the Human Resources and Labor Relations Director. (Revised resolution and report submitted.)

**Action:** Councilor Grady-Sexton moved approval. The motion was duly seconded and passed with no dissenting votes. Councilor Brown recused.

30. 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; Assistant Information Technology Director; together with a report from the Director of Human Resources and Labor Relations.

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

31. Resolution appropriating the sum of \$250,000 in the Hall Street Wastewater Treatment Plant Renovations project (CIP #104) for the installation of a photovoltaic solar array at the Hall Street Wastewater Treatment Plant and applying for and accepting the sum of \$250,000 from the New Hampshire Department of Environmental Services American Rescue Plan Act program for this purpose; together with a report from the General Services Director.

**Action:** City Manager Aspell noted that the Hall Street Wastewater Treatment Plant requires approximately 8,000KW per day and this solar project is anticipated to generate approximately 80KW.

Councilor Grady-Sexton moved approval. The motion was duly seconded and passed with no dissenting votes.

32. Resolution appropriating the sum of \$100,000 in the Hall Street Wastewater Treatment Plant Renovations project (CIP #104) to conduct a process evaluation at the Hall Street Wastewater Treatment Plant and applying for and accepting \$100,000 from the New Hampshire Department of Environmental Services American Rescue Plan Act program for this purpose; together with a report from the General Services Director.

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

33. Resolution re-adopting the Optional Veterans' Tax Credit for the City of Concord pursuant to the provisions of RSA 72:28; together with a report from the Director of Real Estate Assessments.

**Action:** Councilor Grady-Sexton moved approval. The motion was duly seconded and passed with no dissenting votes. Councilors Brown and Nyhan recused.

34. Resolution re-adopting the All Veterans' Tax Credit for the City of Concord pursuant to the provisions of RSA 72:28-b; together with a report from the Director of Real Estate Assessments.

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

35. Resolution appropriating the sum of \$13,941.00 in the Grants and Donations Fund CPL Foundation project to assist the Library's mission in providing a variety of equitable services to patrons at the Concord Public Library and accepting the sum of \$13,941.00 in donations from the Concord Public Library Foundation for this purpose; together with a report from the Library Director.

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

36. Resolution appropriating the sum of \$75,000 to implement a lead service line inventory and accepting the sum of \$75,000 from the New Hampshire Department of Environmental Services Lead Service Line Inventory Grant Program for this purpose; together with a report from the General Services Director.

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

37. Resolution establishing a Bridge Reserve Fund for the purposes of capital repairs, replacements and/or supplemental funding toward the New Hampshire Department of Transportation Municipal Bridge Aid Program to City bridges as programmed in the annual Capital Improvements Plan (CIP), appropriating the sum of \$1,959,113.76 as a transfer to said Bridge Reserve fund, and accepting the sum of \$1,959,113.76 for this purpose; together with a report from the Interim City Engineer.

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

## **Reports**

### **New Business**

#### **Unfinished Business**

38. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, Article 1-6, Code of Ethics; together with a report from the Rules Committee. (Supplemental ordinance and report submitted.) (Public testimony received.) (Supplemental ordinance and report from the Rules Committee submitted.) (Additional supplemental ordinance and report from the City Solicitor submitted.) (Supplemental ordinance and report from the City Solicitor submitted, Feb 2023.)

**Action:** Councilor Nyhan moved to take this agenda item off the table for discussion. The motion was duly seconded and passed with no dissenting votes.

City Solicitor Jim Kennedy reviewed the third supplemental ethics ordinance reviewed by the Rules Committee. Discussion followed regarding the definition of conflict of interest and conflicts of interest relating to elected officials' family members.

Examples were cited for the purpose of understanding topics relating to when an elected official may represent their personal, individual interests and when an official appointed to a board or committee may represent a third party.

It was discussed why elected officials are not to advocate on behalf of individuals/third parties in front of other boards. Elected officials are the appointing authority to City boards, and the advocacy of an elected official on behalf of a third party in front of such a board may be construed as an appearance of impropriety. The personal, individual capacity of elected officials was emphasized.

Councilor Bouchard moved to approve Supplemental Ordinance 2-23. The motion was duly seconded and passed with no dissenting votes.

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

Councilor Pierce congratulated Matt Walsh on his hiring as the Deputy City Manager - Development. Also, Councilor Pierce announced a community meeting on February 26 at Beaver Meadow School at 6:30PM for the neighborhood to meet with officials involved in a development.

Councilor Brown announced that February is Black History Month. Also, Councilor Brown announced the Unity Concert being held February 24 at the Bank of New Hampshire Stage.

Councilor Rice-Hawkins announced the opening of Batulo's Kitchen at the Bank of New Hampshire Stage and the hours are Wednesday - Friday from 11:00AM - 6:00PM.

**Comments, Requests by the City Manager****Consideration of items pulled from the Consent Agenda**

17. Quarterly Status Report from the City Manager on 2022-2023 City Council Priorities. (Pulled from consent by Councilor Brown.)

**Action:** Councilor Brown discussed the City Manager's Quarterly Status Report and the inclusion of Diversity as a sub-heading of Goal Six Sustainability Initiatives. This subheading, seen on the top of page 13 of the report, discusses recruitment efforts by the City to diversify the pool of employment candidates and reach under-represented groups.

Councilor Brown referenced the City contract with the vendor CircaWorks, who she contacted, which is utilized by Human Resources to achieve the aforementioned goals as mentioned on page 13 of the report. Councilor Brown declared her opinion on utilizing the City's CircaWorks contract, which was funded last budget cycle for Human Resources' recruitment process, to diversify Concord boards and committees. Councilor Brown discussed using CircaWorks to find job applicants outside of Concord and asked an employee present at the meeting where he lives. Councilor Brown discussed how she feels this relates to lights at Keach Park.

Councilor Brown moved to form an ad-hoc committee on diversity with members of City Council and community members. The motion was duly seconded, and failed on a voice vote.

Human Resources and Labor Relations Director Johnston spoke to clarify information about CircaWorks. CircaWorks was approved by Council in fiscal year 2023 for use by Human Resources. CircaWorks is used to disperse job postings to multiple agencies and locations while also connecting with underrepresented communities. Human Resources and Labor Relations Director Johnston provided a detailed monthly report from CircaWorks and also discussed the geographical locations as to explain that CircaWorks does not limit job postings to within the City of Concord.

City Manager Aspell reminded members of Council about the non-interference of Council with management prerogatives per Council Rules and the City Charter.

Councilor Kretovic moved approve the Quarterly Status Report. Councilor Rice-Hawkins called for a roll-call vote. The motion was duly seconded, and passed with no dissenting votes.

**Action:**

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

**Excused:** 1 - Councilor McLaughlin

21. Report from the Ad-hoc Outdoor Dining and Food Truck Committee recommending changes to the City's Outdoor Dining Permit Program. (Pulled from consent by Councilor Nyhan.)

**Action:** Councilor Nyhan discussed the umbrella portion of the ordinance within the report as the ordinance generally states that umbrellas are not to carry advertising logos other than that of the establishment. Specifically, Councilor Nyhan asked if the committee considered donated umbrellas.

Councilor Pierce spoke about the committee's discussions in previous years which had allowed umbrellas with commercial logos, such as the brands of items available from a beer distributor, but called for the future discontinuance of such umbrellas in 2023. Discussion followed regarding the minimum of one year's notice which had been given to food and beverage establishments regarding the change in permitted umbrellas.

Concrete barriers, per agenda item number 13 which was set for a public hearing at the March 2023 meeting, and the beautification and costs of such barriers was discussed.

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

### **Adjournment**

**Action:** At 8:53PM, there being no additional Council business, Councilor Champlin moved to adjourn. The motion was duly seconded and passed with no dissenting votes.

**Information**

- Inf1 January 18, 2022 Tax Exemption Policy Committee Approved Meeting Minutes.
- Inf2 January 5, 2023 Tax Exemption Policy Committee Draft Meeting Minutes.
- Inf3 January 9, 2023 Concord Public Library Board of Trustee Meeting Minutes.
- Inf4 January 11, 2023 Ad-Hoc Beaver Meadow Building Committee Draft Meeting Minutes.
- Inf5 January 12, 2023 Golf Course Advisory Committee Draft Meeting Minutes.
- Inf6 January 17, 2023 Fiscal Policy Advisory Committee Draft Meeting Minutes.

*A true copy, I attest*

*Elisabeth Harrington  
Deputy City Clerk*