

**CITY OF LACONIA - CITY COUNCIL MEETING
7:00 P.M.**

6/13/2022 - Minutes

1. CALL TO ORDER

Mayor Hosmer called the meeting to order at 7:00 PM

2. SALUTE TO THE FLAG

Councilor Lipman led the salute to the flag

3. RECORDING SECRETARY

Katie Gargano, City Clerk

4. ROLL CALL

City Clerk Gargano called the roll of the following Councilors: Councilor Cheney, Councilor Soucy, Councilor Lipman, Councilor Haynes, Councilor Hamel, and Councilor Felch.

Mayor Hosmer confirmed that all Councilors were in attendance and a quorum was established.

5. STAFF IN ATTENDANCE

Scott Myers, City Manager; Artie O'Connell, IT Specialist

6. COUNCIL PROCLAMATION

6.A. City Council Proclamation

Mayor Hosmer presented Warren Huse with a proclamation declaring June 17, 2022 to be Warren D Huse Day in the City of Laconia. Warren Daniel Huse was born in Laconia on June 17, 1937, the son of Walter D. and Louise (Richmond) Huse and has resided in Laconia his entire life with the exception of his years in education and when serving in the military. He lived at 7 Edwards Street and later, 35 Spruce Street, and he purchased historic 252 Pleasant Street in the mid-1960s. Warren has been a Laconia resident for 85 years; and, Warren received his education in New Hampshire attending Academy Street School in Laconia, Cardigan Mountain School in Canaan, Kimball Union Academy in Meriden, and graduating from Dartmouth College in Hanover in 1959; and, Warren served active duty in the United States Army from 1960-1981, including service with the 173rd Airborne Brigade and the 82nd Airborne Division, retiring as an Infantry major and having been awarded two Bronze Medals for his heroic service in Vietnam; and, returning to Laconia in 1981 Warren immediately became a highly active member of the Laconia Historical Society and then the Laconia Historical & Museum Society, serving as President for one term and holding the position of Treasurer for 36 years; and, Warren has compiled and published four books on Laconia history, helped edit three others, and, since 1990, has written the weekly "Our Yesterdays" column and history pages appearing in *The Citizen*, and beginning in 2016, in *The Laconia Daily Sun*; and, Warren Huse continues to serve as an active member of the Laconia Historical & Museum Society, tirelessly sharing its mission every day in everything he does – writing, speaking, and conversing about the history of Downtown, Lakeport, and The Weirs, and staunchly striving to ensure that Laconia's rich history is accurately and comprehensively documented; We therefore honor this remarkable gentleman and historian for his 40 plus years of service and dedication to an organization he has nurtured almost from its infancy to where it is today, and for the countless historical facts of

Laconia he has researched, recorded, and shared with the Lakes Region and beyond. The City of Laconia is honored to bestow Warren in recognition of his dedication and commitment to our community. On behalf of all residents of the City of Laconia, we thank you, Warren!

7. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

7.A. City Council regular meeting minutes of May 23, 2022

Minutes of the regular City Council meeting of May 23, 2022 were distributed to the City Council on May 27, 2022.

With no corrections or changes submitted to the Clerk, the minutes will be accepted as distributed.

7.B. City Council budget meeting minutes of May 16, 2022

Minutes of the City Council Budget meeting of May 16, 2022 were distributed to the City Council on May 27, 2022.

With no corrections or changes submitted to the Clerk, the minutes will be accepted as distributed.

7.C. City Council budget meeting minutes of May 23, 2022

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8. CONSENT & ACTION ITEMS

9. CITIZEN COMMENTS FOR MATTERS NOT ON THE AGENDA

Mr. Mailloux who is from 425 Lakeside Ave, and owns Akwa Marina at 95 Centenary Ave. He expressed his concern about the speed limit on Centenary Ave and would like to have it lowered to 15 MPH. He passed around photos to the Council. He'd also like to see something done about the T-intersection at Centenary/ Scenic/ Lakeside Ave. He is concerned about children that are playing in the area and fears for their lives when traffic is flying through at 50 MPH. He has notified the Police Department.

Mayor Hosmer asked how much the speed limit is now?

Mr. Mailloux said he's not sure but he believes it is 25 mph.

Mayor Hosmer asked about if anyone from the City is enforcing it?

Mr. Mailloux said No, the local police have been out there, and they said he needs to get the speed limit lowered, the police don't have any jurisdiction in lowering the speed limit, but the City Council does and that is why he is here tonight. He has offered his parking lot to the police if they'd like to park and watch for speeders, but they haven't taken him up on his offer yet.

Councilor Cheney said that he spoke to the City Manager last week about what authority the Council has in setting a speed limit for a road and they are looking into that. He also stated that the Police Department is doing a study of that area, they have a radar machine and are conducting a traffic count. He will be meeting with the Police Chief next week about this issue.

Mayor Hosmer thanked Mr. Mailloux for bringing this issue to the Council.

10. INTERVIEWS

11. NOMINATIONS, APPOINTMENTS & ELECTIONS

12. COMMUNICATIONS

13. PUBLIC HEARINGS

13.A. **Public hearing - Petition to layout a Class V Highway - Cottonwood Avenue cul de sac**

Notice of this public hearing was made available in the May 12, 2022 edition of the Laconia Daily Sun, and posted at Laconia City Hall, offices of SAU #30, Laconia Community Center and the Laconia Public Library on May 11, 2022. Notice of the public hearing was mailed on May 3, 2022 to owners of the property over which the cul de sac runs as well as all other property owners on Cottonwood Avenue.

Action on this item may be taken up under Unfinished Business.

Mayor Hosmer opened the Public Hearing at 7:16 PM

Attorney Matt Lahey spoke to the Council about the issue before them being quite narrow and quite limited. While they were all on the site visit, the City's Counsel representative Laura Spector-Morgan indicated that the court had already ruled that the Cottonwood cul de sac was already dedicated and remained dedicated. Counselor Lahey stated that the very narrow issue that is left before the Council is simply the other half of the process that makes a street a City street and the City will take on the responsibility for plowing and maintenance. Counselor Lahey is a lifelong resident of this street for the past 60 years. He stated that as the Council knows this case has been in litigation. There have been a number of people who have tried to offer opinions of what had happened back in 1987 that created this cul-de-sac and why. There was only one person who was identified and that was Howard Chandler who was the executive director of the Taylor Community for well over 20 years. During this period of time, he was the point person for the submission of the application for the subdivision approval, he shepherded it all the way through. When Attorney Steven Nix first filed this petition Counselor Lahey had shared with all the Council the affidavit that Howard Chandler had prepared for that litigation. The affidavit is very descriptive and complete. It explains the whole process. He explained that years ago at the end of Cottonwood Ave where the cul-de-sac is, that parcel was owned by Paul Normandin and Claude Bing Plummer. He explained that they wanted to sell the property to the Taylor Home, but then they wanted the Taylor Home to take the responsibility of subdividing off that two-lot subdivision that was seen today on the site visit. When you are facing the cul-de-sac the Plummer house was to the left and the Normandin house was to the right. Now the Taylor Home owns on the left and Nancy Ettelson owns on the right. Counselor Lahey asked if the Council remembers from the Chandler Affidavit, that it said the City and the City Planning Board saw an opportunity; it was a non-conforming street because a street that long with no outlet should have a cul-de-sac. That was the requirement then and is still the requirement now. He explained how Chandler goes on to explain in his affidavit how they created the plan, they created the subdivision plan, they showed the lots, and the lots got sold. Counselor Lahey said that what he just described is the first step in the process which is the dedication. He explains what dedication is; a developer creates a plan, that shows a proposed way, with lots around that roadway. Once the Planning Board approves that plan, and lots are sold; the developers right to the roadway is lost forever. In this case it is the Taylor Home that has lost its right to the roadway of Cottonwood Ave. He explained that a Court cannot take the roadway back nor can the Planning Board or the Zoning Board of Approval. There is only one party who can do that and that is the City Council. That is statutory, the statute says the dedication can only be released by the legislative body which is the City Council.

Counselor Lahey submitted to the Clerk the Affidavit of Howard Chandler for the record. The Taylor Home's Attorney interjected stating that they did not have a copy of this Affidavit. Counselor Lahey said that it was part of the pleading, and he handed the Taylor Home's Attorney a copy of the

Affidavit.

Counselor Lahey continued about the subdivision application; that it was subject to the subdivision regulations, those regulations incorporate the City's ordinances and regulations where applicable. The one that existed then and exists now is City ordinance 197-8 Cul de sac- *streets designed to have one end permanently closed (cul-de-sac) shall be provided at the closed end with a turnaround roadway having a minimum radius for the outside curve of at least 60 feet.* Counselor Lahey submitted this ordinance to the Clerk to be a part of the record, and he gave a copy of the ordinance to the Taylor Home's Attorney.

Counselor Lahey referred back to Howard Chandler's Affidavit stating that he said the City wanted nothing to do with it. The City wanted to close our gate and have no traffic up at the end of the road. That's why it was important on the site visit to see the gated road. He continued to say that the Planning Board in 1987 required the cul de sac because that was not going to be a public road; it was going to be gated. It is gated now and has been since 1987. This shows that ordinance 197-8 was applicable to this plan. Counselor Lahey said that the City needs to be careful because Laura Spector-Morgan, the City's legal counsel, stated that it was a private road out at the site visit. He said that he thinks what she meant by that was that this road hasn't been accepted by the City. The road has been dedicated for public use, which means the public can use it. There is a sign on Cottonwood Ave that does not say "No Trespassing", it says "No City Services". In the litigation they tried to say that there was an implied acceptance by the City because they have plowed and maintained that road for the whole time he has lived there and he would sign an affidavit attesting to that. Counselor Lahey said that dedication can exist without acceptance from the City.

Counselor Lahey said that practically everyday you will see a Fed Ex truck, UPS, Amazon, the Cable Company and landscapers pulling trailers with equipment on them all utilizing the cul de sac. Now that the Taylor Community owns 7 houses along Cottonwood Ave and Walker St combined, one of the biggest users of that cul de sac is the Taylor Community. They bring in large pieces of equipment and they also utilize the cul de sac just like its intended to be used for. He believes there are 33 houses combined on all two streets.

Mayor Hosmer asked about how a fire truck could get out of that road if there was ever an emergency if there was no cul de sac? Counselor Lahey responded that this is not what we are talking about tonight, he doesn't believe it is on the agenda, but the best way would be for them to do a 3-point turn. They would have to pull forward and back onto the Ettelson property and then they'd be able to turn around and head out.

Counselor Lahey closed with asking that the City agree to do what it did from 1987-2019; plow it and occasionally repair the road. The issue is limited, and he requests that the Council vote to accept the responsibility of maintaining that cul de sac.

Attorney Steven Nix who represents Nancy Ettelson of Cottonwood Ave spoke- He explained the history of the litigation, how it started with a planning board appeal and where it went from there on and who has rights to the cul de sac. That litigation did not involve a petition to lay out the highway. What happened in that litigation is that the court determined that there was a dedication. This is a statutory process and was brought forth as a layout and the reason why they chose to go the layout route versus the request for acceptance is because under the statutory layout process, the Supreme Court over the years has created a list of tests that the City Council can look to. That test does not exist in a perfect form under the acceptance law. The layout process is an eminent domain proceeding, where a party can come forward and ask the City Council to create a highway through the takings process. However, in this case we don't have to go through the takings process because The Taylor Home has already dedicated this. This causes us to move right to the second step where the City Council must decide if the public's interest justifies taking of the land without the owner's consent. There is no taking of the land in this case because the owner has already consented to it. He explained that this is where we get into the test for the occasion for layout. They were outlined in his memorandum and he didn't go through them all to the Council but he did touch on the road system, the public need, and in this case there are 30 houses that go from Walker St up to Cottonwood Ave. He wanted to correct Counselor Lahey's comment on the number of houses. He

also included a total of the assessed values of those 30 homes in 2020 which was \$6,775,000.00 in assessed value. The tax base that comes out of that he estimated to be about \$134,000.00 per year. He stated that one of the tests that the Council needs to look at is what is the cost to the community. He would suggest that \$134,000.00 per year in tax revenue is a positive point for the Department of Public Works because they are not going to spend that amount in plowing and maintaining the road each year. He referred to an objection that was filed by The Taylor Home where they make some legal arguments regarding the prior litigation and that the City had taken no position on certain summary judgement motions. These are irrelevant to these proceedings. There is nothing in the law that says that the City cannot lay the highway out. The Taylor Home is also arguing that under the code 197-1 the Department of Public Works and the Planning Board are required to submit input but that is limited to acceptance. They are here for the statutory layout procedures; he thinks that the argument does not apply. He continued on to discuss the courts underlying finding regarding implied acceptance and it is irrelevant to this case. He talked about the difference between acceptance and statutory layout. He stated he is here for the statutory layout. The Court did find that the plan shown to the City Council on an easel did show the dedication of the cul de sac and the Taylor Home is bound by that decision. At this point they have not filed the required motion for reconsideration. Under the court rules, they have waived that argument. He told the Council that The Taylor Home filed a claim for damages that he thinks also does not apply and he has stated in his memorandum that there are several cases that indicate that once a party dedicates a property, they've waived their damages.

Attorney Chris Cole of Phinney, Bass & Greene of Manchester and Portsmouth, NH spoke. He represents the Taylor Community. He has been their representation through the litigation and the planning board proceeding that caused the litigation. He has already submitted a lengthy memorandum and he wanted to tell the Council that the matters that Attorney Nix said are irrelevant to your consideration are all together relevant to your consideration because they bear on public need. In his opinion the City has already declined to take this property. Howard Chandler made an offer of dedication it is true. He pointed out that is the Council referred to exhibits 2 and 3 in the memorandum they sent to the Council, they will see that the Planning Board didn't list that as a condition and didn't require a dedication. He stated that 35 years have gone by and the cul de sac is still not accepted at this time. He stated that in his view the Planning Board approvals from 1987 did not require or need the dedication of The Taylor Home for the cul de sac and the City's Public Works Director has already concluded that there is no public need for this property. Mayor Hosmer asked Counselor Cole which Public Workers Director was he referring to? Counselor Cole replied he was referring to Mr. Anderson. Counselor Cole said that Director Anderson completed a street study; it's exhibits 5, 7, 9, and 10 in the memorandum sent to the City Council. The street study included an analysis of the private streets the City was doing maintenance on and this cul de sac, which is a private street was one of dozens of such properties. He stated that Director Anderson brought forward whether or not the Council needed to accept any of those private streets that they were conducting maintenance on. He believes Director Anderson did this in May 2019, and the Cottonwood cul de sac property was not one of them. He stated that it was not that Director Anderson didn't know about the Cottonwood cul de sac, Director Anderson did an analysis of it, he concluded it was private, he concluded that the Planning Board didn't require it to be dedicated, and he went through the City's attorneys and got buy in for that. Counselor Cole stated that he did not know who the City's legal Counsel was at that time. Counselor Cole believes this is on Page 7 of the memorandum in exhibit 5.

Counselor Cole continued to say that the issue here today is whether or not there is a public need to accept this as it is now. There was a lot of talk about the change in the plan for the Taylor Home application in 2019, but that is not what we are talking about tonight. Any questions about how it would be bad to change the cul de sac, how it would impair drainage, how it would be inconsistent to the Code to not have a cul de sac is all irrelevant tonight. Tonight the Council is only being asked this question; is there an "occasion" meaning a compelling public need to take this property from a private land owner? He told the Council that in order to do that job they need to balance two things, whatever the public need is against the rights of the private property owner. Taylor has a bundle of rights to use and develop their property and it may want to change the configuration of their property some day against and what is the cul de sac now and why would the City want to accept that property and seize it from the owner.

Mayor Hosmer asked Counselor Cole if he is just trying to clear up what the City didn't do 35 years ago, is this to tie up a loose end or does he have an end game as to what his clients would like to do with the property? Counselor Cole replied that he doesn't know what The Taylor Home's end game is. They made an application with the planning board to put in a hammer head design. When the application is submitted all of the City's departments are asked about it and required to sign off on this idea. Departments include Fire, Police, DPW, and Planning. Mayor Hosmer questioned Counselor Cole of the reality of this because no one would do all this work and hire attorneys to work on this or to draft plans up to just be an exercise. Mayor Hosmer thinks that this would be done with a specific goal in mind otherwise it would not be a prudent use of any funds. Counselor Cole stated that he thinks the goal is for the Taylor Home to put in 2 new cottages in the woods near back from the gate that they saw tonight at the site visit. He also said that all of the City Departments said that this idea was ok, and the hammer head design worked for them, Director Anderson has some big trucks in his department and he said it would be ok for them to turn around.

Counselor Cole continued on to discuss the layout petitions position purpose, stating that it is two-fold. That is to impede The Taylor Home from using its property rights, to impede The Taylor Home from developing their property, and to reverse the Superior Court decision on ownership. He stated that is not a proper purpose under the law. He thinks that Counselor Nix touched on this or Counselor Lahey did earlier this evening. The case law gives you 8 factors to talk about to make sure that not just this body but every municipal governing body in this state takes into account the reality of what is the public benefit as against the private property owners rights.

1. Integration within the existing road system- this is a cul de sac, it interconnects with no other street than Cottonwood Avenue.

2. Ease of existing traffic flow- all the City Departments have said that traffic flow will be unimpeded, and they can get all their trucks in to where they need to go. At most it serves as a turn around for some in the street, this is a street where all of the homes on Cottonwood Ave have their own private driveways and they have a limited need to turn around. He thinks the need to turn around is sporadic at best and he said the court found that the need to turn around was sporadic at best. This is a street where all of the City's Fire, Police and Public Work's Departments signed off on the amended site plan. He thinks that what the City Departments were saying to the Planning Board was that nothing about this new design will hinder us carrying out our public duties to the City.

3. Improvements to the convenience of travel- we are talking about a 3-point turn at most. He doesn't think that its enough of a public benefit to seize someone's property.

4. Facilitation of the transportation of existing school children- petitioners pointed to a single child who is picked up for school during the week. The ownership of the property will make no difference to the school bus or the facilitation of that transportation.

5. Improved accessibility to the business district- is exactly the same.

6. Improved accessibility to employment centers and improved accessibility to police, fire and other city services- he reiterated his comment from #2 about the City Departments signing off on the amended site plan application.

7. the benefit to significant proportion versus a small fraction of town tax base of year round residents- He knows how much this topic means to all the people present at the meeting and he doesn't want to get anyone upset, but he stated that nothing will change for anyone in the City. This is to say are there other City taxpayers who are going to endure some type of benefit by the taking of the Taylor Homes property. Counselor Cole said the answer is no.

Councilor Lipman made a comment that he has heard him go over a number of items tonight and all of his answers are no. Councilor Lipman thinks that they are here tonight to make a judgement around the public need and benefit and he asked Counselor Cole if that is wrong? Counselor Cole replied no, he thinks they are here to do it and he is here tonight to tell them respectfully that there

isn't any. Councilor Lipman stated that at the end of the day its up to the Council. Even though a City Department may have said something, they do not determine what is needed. It is this legislative body that determines that in this instance, correct? Counselor Cole replied yes with a caveat, to go in the face of all of your leos, all of your first responders and your public works would suggest as an evidentiary matter that Councilor Lipman is wrong if you have that public benefit. He stated that this will get challenged in the courts and no offense to anybody here tonight but that is just how it will all work out.

Councilor Lipman asked him if he could at least see that they are entitled to see all of the factors not just one by one in isolation. Tonight he has listened to Counselor Cole go through each one of these factors stating that there is not a public need, and that is sort of a reductionist analysis of it. But taken together a different conclusion might be able to be considered. Counselor Cole replied that respectfully he disagrees, he stated that you cannot go through 8 factors and say no to all of them and then some how amalgamate them or remix them into concrete that holds. The cul de sac doesn't matter to any of these things. A wash should be in favor of private property ownership.

Counselor Cole concluded to state that all factors lead to the status quo of doing nothing or leaning strongly in favor of the landowner. The petitioners are asking the City Council to take a private property from another resident of this City to avoid the inconvenience of a 3-point turn. They are asking you to overturn a decision of the Court and they ask you to deliver ownership to the City in a litigation that we spent the past 2 years deciding that ownership is with The Taylor Home. The petitioners are asking the City Council to seize the property and its not to enhance the public good or public interest. Its to serve their purposes so that nothing will change and it will be much for difficult for The Taylor Home to develop the adjacent property.

Mayor Hosmer stated that he appreciated the effort Counselor Cole was putting into this and the issues he was raising but when thinking about fundamental fairness and when you go to Howard Chandler's Affidavit. Counselor Cole stated that he was happy to talk about that because he just received Chandler's Affidavit tonight and he was not aware that it was going to be a part of the record. Mayor Hosmer stated that maybe this should be discussed at a later time. Counselor Cole said that this is our time unless the City Council is going to give him time to go over Howard Chandler's Affidavit and submit a response. Mayor Hosmer does not know what the Council will decide later this evening, but he reiterated that this is not a court, and they are just ordinary joes who are trying to figure out what fundamental fairness is to the people who live in this City and the taxpayers, and that includes his client. He said that doing some type of analysis on Howard Chandler's Affidavit can give the Council a good idea of what was going on 35 years ago. Even though this is not a court it seems like this is more form over substance in this case, there was an intent, and it may not have been concluded the way that it should have been at the time, but we all knew what the lay of the land was and we knew what was expected of each party. There seems to be an evolution of what the Taylor Community would like to do, and he thinks they went back and looked at the documents and thought they could slide out of it to do what they want to do because the City didn't fulfill its original obligation and it was a technicality of sorts. He knows that is very important in a court of law, but when you come in here, they are not judges and they are just trying to figure out what to do for the taxpayers here and what is at the mutual benefit of the City.

Counselor Cole stated that he understood what the Mayor is saying. He said that Mr. Chandler's Affidavit is dated April 2021, he does not remember what he read in 2021 and he needs to revisit it, he was unaware it was going to be part of the record tonight. The factors that he presented tonight were not made up by him, they came from the Supreme Court in the State of New Hampshire and they apply to governing bodies, they don't apply to anyone else. He thinks that it is the City Council's solemn duty to do that. He asked that they please vote no on the proposed resolution.

Councilor Hamel asked Counselor Cole given everything he said he's going to go along with what the Mayor asked about the end result of all of this. The Taylor Home wants to take a portion of that cul de sac so that their set backs can be met to build a home? Counselor Cole replied that the Taylor Home wants to build a hammer head design out of the cul de sac in order to have the road frontage to put in the homes. Councilor Hamel then mentioned that Counselor Cole repeatedly talked about the City taking private property and seizing someone's property, when back in 1987 the Taylor Home

dedicated the road to the City of Laconia and he asked if there has been anything that has been acted on by the City that says that we give that dedication back to the Taylor Home? Counselor Cole said no there has not. Councilor Hamel asked if there has been any ruling by any Council that said that? Counselor Cole said no there has not.

Councilor Soucy asked about the hammer head design, looking for clarification that the design would give the Taylor Home the ability to build whatever they want on that hammer head? Counselor Cole said he doesn't believe they can build whatever they want, but it would give the availability to build a couple of cottages.

Councilor Cheney referred to the plan that was displayed on the easel for the Council by Attorney Nix. This was the site plan that was approved by the City and this site plan includes a circular cul de sac. He asked if Taylor can now say that they don't care what that plan said because they now want to put in a hammer head design. Counselor Cole responded no, not at all. The Taylor Home submitted a formal site plan application to amend the current site plan. The Planning Board believed there was a question about the ownership of the cul de sac, they denied that the City owned it and the Taylor Home appealed that decision in Court over the past 2 years and it has prevailed that the Taylor Home owns the cul de sac. Councilor Cheney clarified that if the Planning Board denies their request to amend the original site plan then are stuck with cul de sac design. Counselor Cole confirmed that was correct.

Nancy Ettelson of Cottonwood Ave spoke. She's lived there for 24 years doesn't think that a hammer head design is nearly as safe as going around a cul de sac.

Richard Lewis of 63 Walker St, wondered who paid for the new guardrail that goes around of the cul de sac? He didn't know about a traffic survey or a traffic count being done in this area. If there was one, he'd like to see the results and if there has not there should be one done to determine the full use. He's not sure what Taylor Home's end game is but one concern he has is adding 2 independent homes above the grassy area of the cul de sac. He'd like to suggest instead of building 2 independent homes that perhaps one duplex could suffice.

Kathleen Murphy of 70 Cottonwood Ave was delighted to move in a home with a cul de sac, because she knows how they work for the traffic flow. She has seen a lot of children and people walking their dogs on this street and she thinks the proposed design would be dangerous. She also noted the significant increase in traffic since the Taylor Home has purchased several homes on that street.

Mike Brady of 30 Cottonwood Ave has grandchildren that live in their home, they have dogs. They see the Taylor Home trucks driving on the road all the time. They don't seem to be serving a purpose. He'd like to see it remain a quiet community. The traffic has increased significantly on this street.

Daniel Schroeder of 1 cottonwood Ave would like to see the cul de sac be kept the same.

Jim Arsenault of 72 Cottonwood Ave spoke. He's been a part of several boards and committees with the Taylor Home over the years and he'd like to see the Council formally complete the process to maintain the cul de sac the way it has been.

Karl Reitz of 56 Cottonwood Ave said he enjoys seeing the people walking their dogs and children walking on the road versus the vehicle traffic. He thinks a hammer head design would cause an issue. He'd like to see it remain the same.

Steven Bobotas of 38 Walker St has seen the increase in traffic. He thinks that The Taylor Home needs to stop being the 600-pound gorilla in the neighborhood.

Michael Brough of 17 Cottonwood Ave is recently retired and has noticed a lot of increased traffic and thinks it should stay the same. He echoes many of the previous comments and viewpoints and he'd like to see everyone just get along.

Sean Cochrane of 53 Walker St spoke. He is one of the daily dog walkers and has raised his children on that street. He thinks that the Taylor Home has been great and there is nothing wrong with them at all. He thinks that it is very clear on the public's support that has been shown here tonight that he doesn't think that what they want to do with this revised design is in the best interest of these 30 houses that are on this street.

Gary Rivest of 49 Cottonwood Ave has a family with little kids on this street. Over the past 2 years he has seen increased traffic on the road. He fully supports The Taylor Home and thinks they have great missions. He has concerns about the traffic flow and the safety of the children who play in the street and he is in favor of keeping the cul de sac.

Kirk Beswick is the vice president of facilities, and he is representing the Taylor Home. He has heard a lot of the commentary tonight and he thought he'd share some of the comments from the leadership at the Taylor Home. He was a part of the initial discussion of a hammer head, and he wanted to discuss a few things tonight in respect to the site plan amendment. The Taylor Home owns 7 parcels on Cottonwood Ave, and they pay more taxes than all the owners combined on that street. They have invested in the community, and they have invested thousands of dollars into these homes. The increased traffic is the Taylor Home maintaining these properties which they have been told are kept much nicer than any other owner. He mentioned that one of the speakers that came up tonight even approached the Taylor Home asking them if they'd be interested in buying their home. In fact, all the homes that they have purchased on Cottonwood and Walker St, have come from people offering their homes to the Taylor Home first. The Taylor Home has not solicited anyone; they have not knocked on any doors. People have approached them about selling them their homes. He feels they have been approached mostly because they are a good neighbor. He mentioned that they allow the dog walkers to walk onto their property and they provide all the neighbors with animal waste bags. The Taylor Home maintains the cul de sac and if you go back far enough, the Taylor Home paid to have the cul de sac installed because it was part of the agreement of that particular subdivision. He wants to make sure that we don't lose in this conversation that the Taylor Home is a good neighbor. The Council needs to decide on what is right here, the property rights of a landowner who has been vested in the City since 1910, or the residents who are here tonight voicing their concerns about the traffic and the flow of traffic.

Mayor Hosmer thanked Mr. Beswick for speaking to the Council tonight and he stated that he doesn't think that there is anyone here who doesn't think The Taylor Home is a good neighbor. Because the Council may have some questions it does not mean that the City is questioning the Taylor Home's role that they play in the City. They are good neighbors, good people, have a great mission, they are just trying to figure out how to balance this as best as they can.

Erika Duncan of 72 Walker St shares the same concerns that many have stated tonight regarding safety and traffic flow. She also wanted to make a comment about the Taylor Home saying they don't solicit or try to buy people's homes from them. When she learned about an issue on her property with some of the Taylor Home's water pipes and a drain being on her property that were in need of repair, she said the Taylor Home tried to put a stipulation that if they were to pay for the repairs and if she was to sell her home that they would get the first right of refusal. She did not want that, so she paid for the repairs herself.

Mayor Hosmer closed the Public Hearing at 8:21 PM. He wanted to let the members in the audience know that when the Council gets to this item on the agenda it will be tabled under unfinished business for a 2-week period to allow the Council to review the materials.

Manager Myers noted that on May 25, 2022 an email was forwarded to the Council including the documents that the Taylor Home's Attorney submitted.

13.B. **Public hearing for Ordinance 2022-194-16, 24 - Proposal to increase solid waste fees**

Notice of this public hearing was made available in the May 26, 2022 edition of the Laconia Daily Sun, and posted at Laconia City Hall, offices of SAU #30, Laconia Community Center and the Laconia Public Library on May 26, 2022.

Action on this item may be taken up under Unfinished Business.

Mayor Hosmer opened the Public Hearing at 8:28 PM

No one in person approached the podium or online raised their hand to speak

Mayor Hosmer closed the Public Hearing at 8:29 PM

13.C. **Public hearing for Resolution 2022-08 - Relative to making itemized appropriations for City funds for the fiscal year beginning July 1, 2022 and terminating June 30, 2023**

Notice of this public hearing was made available in the May 26, 2022 edition of the Laconia Daily Sun, and posted at Laconia City Hall, offices of SAU #30, Laconia Community Center and the Laconia Public Library on May 26, 2022.

Action on this item may be taken up under Unfinished Business

Mayor Hosmer opened the Public Hearing at 8:29 PM

No one in person approached the podium or online raised their hand to speak

Mayor Hosmer closed the Public Hearing at 8:30 PM

14. **PRESENTATIONS**

15. **MAYOR'S REPORT**

There are a couple of items that the Mayor would like to cover tonight, he noted there is a lot of good stuff happening in our City. On Thursday they kicked off Motorcycle Week at the Ed Engler Auditorium at the Colonial Theater. It was just as he imagined with a few motorcycles on the stage, a great crowd and the Governor joined them. He thinks it is everything Ed had imagined and he's very glad to see his vision come to fruition. The Laconia School system and the office of extended learning has been awarded the 21st century community learning center federal grant which supports the creation of community learning centers to offer safe and richer learning environments to students during non-school hours both before and after school as well as school breaks and summers. This learning complements and reinforces the regular school day with their academic program with participating students. This is a grant that the City has received since 2002 and it's been level funded. Mayor Hosmer thinks that because of the high quality of the grant application this year they received a 99.1 % on the grant application which is the highest percentage on the grant application ever. They have been awarded a grant at 100% of the requested budget, which is \$825,000.00 per year for the next 5 years. Mayor Hosmer wanted to give credit to Beth Vachon, who is the one who submitted the grant application. He also wanted to express how this is great news for our City and our students who choose to participate. This will give Laconia the flexibility to do some creative things within our City for some kids who he thinks will really appreciate it. Congratulations to Beth Vachon, the Laconia School District, and the Office of Extended Learning!

Mayor Hosmer also wanted to say Congratulations to the Laconia High School Lacrosse team who won the Division 3 State title. They played versus Hopkinton in Exeter, NH. Mayor Hosmer was there in attendance, and it was a very exciting game. The passion and the energy that was brought to Exeter from Laconia was a sea of red in the stands. You could see all the support from the coaches and the parents. It was very exciting to see! Mayor Hosmer stated we have a lot to be proud of in Laconia, it's not all about winning it is about the commitment and the level of sportsmanship that these young men displayed on the field. It is a

great reflection of our community and a reflection of our coaches and the staff. He also noted we had some All-State Player awards given out to several players: First Team All-State was awarded to Cam Harriman who is the Goalie, Cole Roy who plays Midfield, Zack Whitney who plays Midfield, and Jacob Mello on Defense. Second team All-State went to Carson Tucker who plays Midfield, Tim Ossovich who plays Midfield, Edgar Conroy on Defense and Evan Rollins on Attack. They also had an honorable mention for Bodie Ryan Rollins and Evan Carignan. He hopes that the team can come join the City Council on June 27, 2022 so they can acknowledge them.

He'd like to request that the Laconia High School top 10 students be present on June 27, 2022 so the City Council can acknowledge our students. They used to do this in the past and then covid hit and he'd like to bring that back. Mayor Hosmer asked Manager Myers to reach out to the school to try to gather everyone up and they'll acknowledge all of them right at 7:00 pm when the meeting starts.

16. COUNCIL COMMENTS

Councilor Cheney wanted to speak briefly on the remarks made by owner of Akwa Marina. He asked the City Manager to check on the legality of what is allowed on a public street on what the speed limit can be set at. Manager Myers said that he'd look into it and get back to him.

Councilor Felch wanted to mention the status of the 4th of July parade is coming together nicely. All events are on July 3rd. The parade will begin at 4:30PM and will start at Wyatt Park and end at Opechee Park. Please contact Councilor Felch if anyone would like to participate in the parade.

Councilor Hamel participated in the Peter Makris ride this past Saturday. There were many attendees, and he doesn't think that there is a more charitable group of people than motorcyclists. There were approximately 300 bikes that participated. The event benefited the Laconia Fire Dept, Easter Seals, the Laconia Life Saving Fund- water rescue, Veterans Count, and Laconia Cert. Peter Makris was one of the owners of the Naswa, a lawyer in the City, a County Attorney and a member of the Laconia City Council.

Councilor Haynes wanted to echo the Mayor's comments about the kick off to Motorcycle Week at the Colonial on Thursday. He agrees that recognizing the Lacrosse team is also a great idea.

Councilor Soucy mentioned some concerns he's been seeing at the Gazebo in Rotary Park. He has been seeing it is becoming a significant gathering place, and that is something they need to address. He knows its not an easy subject to address and maybe it's been on the other Councilor's minds, but it is definitely something that needs to be acted on. He is getting calls from residents in his ward that are saying it is driving people away. Mayor Hosmer commented that he knows it has become a priority for the Chief of Police, and Detective Eric Adams reached out to him last week about sitting down to begin some discussions about what to do next. Councilor Soucy said that he has heard that there are people giving out bus tickets to send these people here because of the Isaiah Café. Mayor Hosmer confirmed he has heard the same rumor and does not know the accuracy of it. Mayor Hosmer also noted that when he spoke to the police, they told him they were conducting a questionnaire and that was part of it. The police are taking some biographical data from these people, because there are a lot of them that the police have never seen before. They are trying to figure out, where they were from, how they got here and how long they planned on staying. Councilor Soucy said that the City has put a lot of money into Rotary Park and people can't even walk down there.

17. COMMITTEE REPORTS

17.A. FINANCE (Lipman (Chair), Hamel, Cheney)

17.A.i. WOW Trail Funding

17.A.ii. Downtown TIF Financing

17.B. PUBLIC SAFETY (Cheney (Chair), Soucy, Lipman)

17.C. GOVERNMENT OPERATIONS & ORDINANCES (Soucy (Chair), Felch, Cheney)

17.C.i. **Review of Chapter 167, Noise and Chapter 161 Licensing as it pertains to outdoor sound equipment and loudspeakers**

17.C.ii. **Ordinance Amending Chapter 221, Vehicles and Traffic/Parking on Sublawns**

17.C.iii. **Procedural review of grant applications**

17.C.iv. **Regulation of Short Term Residential Rental Businesses**

17.C.v. **Proposed Historic Overlay District**

17.C.vi. **Scenic Road Motorcycle Noise Petition**

17.C.vii. **Use of public property by for-profit entities**

17.C.viii. **Short Term Rentals**

17.C.ix. **Naming privilege's to public areas**

17.D. LAND & BUILDINGS (Hamel (Chair), Haynes, Felch)

17.D.i. **Downtown parking garage**

17.D.ii. **Repair & maintenance of City buildings**

17.D.iii. **Plan for the DPW Compound**

17.E. PUBLIC WORKS (Haynes (Chair), Felch, Soucy)

17.E.i. **Retaining Wall Policy**

17.E.ii. **Discussion for converting from a manual to an automated solid waste curbside collection service**

17.F. APPOINTMENTS (Councilors Soucy (Chair), Cheney and Haynes)

18. LIAISON REPORTS

19. CITIZENS REQUESTS TO COMMENT ON CURRENT AGENDA ITEMS

20. CITY MANAGER'S REPORT

20.A. Financial and Operational Trends Report

Manager Myers began with the Financial and Operations Trends report. On the top of the page 1 shows the Net gain in construction value from Building Permit Reports Current year: April 1 – May 31, 2 months in and we are at: \$11.4 million, one year ago it was: \$14.1 million, two years ago it was \$2.8 Million. Public Assistance numbers were up due to covid and we've received reimbursements that are reflected in the report. On page 2 the two items he wants to draw the council's attention to is property tax collection for 2021 is at 99.54 % which is the highest collection rate since they began the statistics in 2014. At the bottom of the page, motor vehicle registrations, we've got one month left in the fiscal year and we should be at 91 or 92 % of target and we are at

96.5 %. The number is based on an increase in the revenue estimate; motor vehicle revenue continues to be very strong. The other item he mentioned was boat registrations which are on page 5 of the report. We've collected \$85,000 which is pretty close to where we they were at last year.

21. NEW BUSINESS

21.A. Request to discontinue a portion of the public highway known as Weirs Boulevard

Richard and Joanne Tilton, are owners of "Resort on the Bay", a mobile home park located at 591 Weirs Boulevard.

This request is to discontinue a portion of the Weirs Boulevard layout that lies southwesterly of the 1933 Weirs Boulevard sideline. This area contains the beach area now occupied and used by Resort on the Bay. There are no existing highway drainage structures or other public highway uses of this area, and there is no longer a public need for this highway right of way. Upon discontinuance, this small section of beach area would revert to the Tiltons unencumbered by the highway easement. Please refer to the agenda to view the attached map which shows the area the Tiltons are requesting to be discontinued.

The area to be discontinued does not have a road on it. The City's right of way extends to the water line on Paugus Bay. The Tilton's property is the only property that is across the street from the area to be discontinued.

The Tiltons have been working with Public Works to create a design plan to upgrade the stormwater drainage along Weirs Boulevard in this area. They have agreed to construct these improvements at their expense.

As required, a certified copy of the Notice of Hearing was sent to the Tiltons on May 23, 2022. They are the only property owners abutting the right of way to be discontinued

Councilor Felch made a motion to approve the discontinuance of a portion of the public highway known as Weirs Boulevard as presented seconded by Councilor Haynes. **Discussion: none.** The motion passed with all in favor.

21.B. Resolution 2022-09 relative to authorizing the expenditure of ARPA funds for capital improvements and acquisition of equipment

In August 2021 the City received funds in the amount of \$867,929 under the American Rescue Plan Act. Since then, these funds have been used to replace lost revenue, promote economic activity and fund drainage projects.

On April 11, 2022, City Manager Scott Myers presented the City Council with a plan for expending remaining 2021 ARPA funds on capital improvements and equipment.

Councilor Robert Hamel seeks to allocate funds for certain proposed projects to allow these projects to move forward at this time. These are the Bond Beach Bath/Sewer Improvement Project, acquisition of ambulance equipment and acquisition of a plotter in the Public Works Department. The total expense for these three projects is \$294,015.

Approval of this Resolution will permit for the expenditure of \$294,015 in ARPA funds previously received.

Councilor Hamel made a motion to waive reading of this Resolution in its entirety and to read by title only, seconded by Councilor Cheney. **Discussion: none.** The motion passed with all in favor.

Councilor Hamel made a motion to approve Resolution 2022-09 relative to authorizing the

expenditure of ARPA funds for capital improvements and acquisition of equipment as presented, seconded by Councilor Cheney. **Discussion: none.** The *motion passed with all in favor.*

21.C. **Request to approve a tentative agreement for the Laconia Professional Firefighters Association, Local 1153 of the International Association of Firefighters, AFL-CIO, CLC**

The City Council has been briefed on the terms of the tentative agreement prior to this evening's meeting.

Councilor Cheney made a motion that the City Council approve the tentative agreement for the Laconia Professional Firefighters Association, Local 1153 of the International Association of Firefighters, AFL-CIO, CLC for the period from July 1, 2022 through June 30, 2025. Seconded by Councilor Haynes. **Discussion: none.** The *motion passed with all in favor.*

21.D. **Request to approve a tentative agreement for the Laconia Police Officers Association**

The City Council has been briefed on the terms of the tentative agreement prior to this evening's meeting.

Councilor Cheney made a motion that the City Council approve the tentative agreement for the Laconia Police Officers Association for the period from July 1, 2022 through June 30, 2025. Seconded by Councilor Soucy **Discussion: none.** The *motion passed with all in favor.*

21.E. **First reading of Ordinance 2022-161-25 amending Chapter 161, Licensing, to add a new section - 161-25 - Alcoholic Beverages**

Councilor Felch has requested this item be placed on the Council's agenda. A request was received from Anthony Santagate to keep the Weirs Beach area open until 2:00 am for business. At their May 3, 2022 meeting the Planning Board approved an extension of entertainment hours until 2:00 am for Fridays, Saturdays and during special events such as Motorcycle Week, Biketemberfest or similar events. This approval had no effect on the hours for serving alcohol. Under State law, RSA 179:17, the Liquor Commission sets hours for alcohol sales as between 6:00 am and 1:00 am, 7 days a week. A licensee may sell alcohol until 2:00 am if the local legislative body (the City Council) adopts an Ordinance authorizing such sales. Proposed Ordinance 2022-161-25 is attached to the agenda for the Council's consideration.

Councilor Cheney made a motion to waive a reading of this Ordinance in its entirety and to read by title only. Seconded by Councilor Felch. **Discussion: none.** The *motion passed with 5 in favor.* Councilor Lipman was opposed.

Councilor Felch made a motion for a first reading of Ordinance 2022-161-25. Seconded by Councilor Cheney. **Discussion: none.** The *motion passed with 5 in favor.* Councilor Hamel was opposed.

Councilor Felch made a motion to schedule a Public Hearing on June 27, 2022, during the regular City Council meeting to gather input prior to any action being taken. Seconded by Councilor Cheney **Discussion:** Councilor Soucy asked if there been any input from the police department? Councilor Felch said we can get that at the public hearing. Councilor Lipman said that he supports a public hearing. Councilor Cheney will be asking the Police Chief to attend. Councilor Haynes said that he in favor of a public hearing, but he wants his fellow councilors to know that he has a problem with this request. Councilor Lipman would like to see a calendar of what days during the summer wouldn't be until 2 AM? Manager Myers said that they can work on that, he thinks that the intent was to do it during motorcycle week and other events. Councilor Lipman said it would be easier to see it on a calendar. Manager Myers acknowledged Councilor Lipman's request. The *motion passed with all in favor.*

21.F. **Request to de-designate a portion of the Scenic Byway Route in the City of Laconia**

Kevin O'Leary, is the owner of the Craft Beer Exchange, Home of the Witches Brew Pub located at 59 Doe Avenue in Weirs Beach. Mr. Leary was notified by the NHDOT Bureau of Traffic that his off-premises sign for his business is located on a Scenic & Cultural Byway, which is in violation of RSA 238:24.

As a portion of the Lakes Region Tour Scenic Byway route is in the City of Laconia, the City may request that a portion of the Scenic Byway Route that lies within Laconia be formally dedesignated per the NH Scenic Byways Rules of Procedure. This would eliminate the issue of an off-premises sign being in violation of the Scenic Byway Sign Statutes.

A formal letter of request sent to the state for de-designation is required to begin the process.

Please refer to the agenda to see two attached maps; one shows the current location of the Scenic Byway as it relates to Laconia, and the other with the yellow highlighted area shows the area that is proposed to be de-designated.

Discussion: Councilor Lipman would like to see some information from the Chamber of Commerce.

Councilor Lipman made a motion to table this item. Seconded by Councilor Felch. *The item was tabled with all in favor.*

22. **UNFINISHED BUSINESS**

22.A. **Second reading - Petition to layout a Class V Highway - Cottonwood Avenue cul de sac**

The City received a request to layout a Class V Highway at the end of Cottonwood Avenue. At their May 11, 2022 meeting the City Council approved a first reading of the Petition to Layout a Class V Highway – Cottonwood Avenue cul de sac and scheduled a public hearing which was held earlier this evening. There was a site visit on Cottonwood Avenue at 6:00 pm preceding this meeting. Notices of the Public Hearing and site visit were mailed on May 3, 2022 to owners of the property over which the cul de sac runs, as well as all other property owners on Cottonwood Avenue. Attached is the Petition to Layout a Class V Highway. Also attached is Taylor Community's Memorandum of Points and Authorities in opposition to the Petition and their Answer and Objection to the Petition.

Councilor Soucy made a motion to table, seconded by Councilor Haynes. *The item was tabled with all in favor.*

22.B. **Ordinance 2022-194-16, 24 - Proposal to increase solid waste fees**

The cost of transporting and disposing of solid waste is increasing. Landfill/incinerator space is a commodity and tipping fees for 2023 are increasing by over \$7 per ton. Additionally, hauling fees are increasing due to inflation and the cost of fuel. The disposal costs for household trash in 2023 will be at least \$101/ton. The current fee for household type trash is \$94/ton. Thus, in 2023 the City will be in arrears by at least \$7 for every ton brought by a paying customer to the Transfer Station. The cost of disposing of construction and demolition debris, tires, white goods and electronics is also increasing. The current fees and the proposed increases would take effect on July 1, 2022. The household trash fee increases will not affect any customer who brings in 100 lbs or less of household trash as their fee will remain \$5. The proposed fee increase impacts those customers who bring in over 100 lbs of trash. At the City Council meeting on May 23, 2022 the Council approved the first reading of Ordinance 2022-194-16, 24 and scheduled a Public Hearing for June 13, 2022.

Councilor Cheney made a motion to waive a reading of this Ordinance in its entirety and to read by title only. Seconded by Councilor Felch. **Discussion:** None. The *motion passed with all in favor.*

Councilor Felch made a motion to approve a second reading of Ordinance 2022-194-16, 24, Proposal to Increase Solid Waste Fees. Seconded by Councilor Cheney **Discussion:** None. The *motion passed with all in favor.*

Councilor Soucy made a motion to approve Ordinance 2022-194-16, 24, Proposal to Increase Solid Waste Fees, with the increase to take effect on July 1, 2022. Seconded by Councilor Felch. **Discussion:** None. The *motion passed with all in favor.*

23. **FUTURE AGENDA ITEMS**

23.A. **Master Plan**

23.B. **Milfoil Treatment funding requests**

23.C. **Sewer & Water Master Plan**

23.D. **Single Stream Recycling/Concord Co-op/Solid Waste disposal cost reductions**

23.E. **Strategic Planning/Goal Setting**

23.F. **WOW Trail**

23.G. **Weirs Beach Restoration Project**

23.H. **Fair St/Court St traffic problems and accidents**

24. **Any other business that may come before the Council**

25. **NON-PUBLIC SESSION (According to RSA 91-A:3, II)**

26. **ADJOURNMENT**

Mayor Hosmer adjourned the meeting at 9:07 PM.

Respectfully Submitted by,

Katie Gargano, City Clerk