

Non-public meeting in accordance with RSA 91-A:3, II to discuss the City Manager's Annual Evaluation to be held at 6:00 p.m.

City Council Meeting
Minutes
April 8, 2013
City Council Chambers
7:00 p.m.

Non-public meetings in accordance with RSA 91-A:2, I (a) to discuss the status of collective bargaining negotiations and RSA 91-A: 3, II (d) to discuss property sale and/or acquisition to be held after the Council meeting.

- 1. The Mayor called the meeting to order at 7:00 p.m.
- 2. Invocation by the Reverend Peter Hey, Wesley Methodist Church
- 3. Pledge of Allegiance.
- 4. Roll Call. Councilors Bennett, Blanchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady-Sexton, Keach, Kretovic, McClure, Nyhan, Patten, St. Hilaire, Shurtleff and Werner were present. Councilor Bouchard was excused.
- 5. Approval of the March 11, 2013 meeting minutes.

Action: Councilor St. Hilaire moved approval of the March 11, 2013 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 Grady Sexton moved approval of the consent agenda with items 16 and 18a moved to the end of the agenda for discussion. The motion was duly seconded and passed with no dissenting votes.

Items Tabled for a May 13, 2013 Public Hearing

- 7. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 17, Vehicles and Traffic; Article 17-7, Rights and Duties of Pedestrians; together with report from the City Solicitor. (1-9) (2-33b; 2-35) (3-38)
- 8. Resolution accepting and appropriating \$30,000 from the New Hampshire Housing Finance Authority Community Planning Grant Program for the development of a new Penacook Village Center Zoning District; together with report from the City Planner.

From the City Manager

- 9. Positive Citizen Comments.
- 10. Council meeting date calendar.

Consent Reports

- 11. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$1,372.65 as provided for under the preauthorization granted by City Council.
- 12. Diminimus gifts and donations report from the Human Services Director requesting authorization to accept monetary gifts totaling \$131 as provided for under the preauthorization granted by City Council.
- 13. Diminimus gifts and donations report from the Police Department requesting authorization to accept monetary gifts totaling \$8,985.60 as provided for under the preauthorization granted by City Council.
- 14. Diminimus gifts and donations report from the Fire Department requesting authorization to accept monetary gifts totaling \$592.10 as provided for under the preauthorization granted by City Council.
- 15. Overall Economic Development Performance (OEDP) Annual Report.
- 16. Committee report on the Finance Committee budget schedule and adoption date. (*Pulled from consent by Mayor Bouley*)

Action: Item to be discussed at the end of the agenda.

- 17. Report from Deputy City Manager Development requesting authorization to modify an existing utility easement along the Whitney Road corridor.
- 18. Economic Development Advisory Committee (EDAC) review and recommendation on City's economic development policy.

18a.Reports from the Planning Board and Conservation Commission in response to a communication from McKenna's Purchase Northern Pass Committee seeking the city's assistance in regards to the Northern Pass Project. (1Sus2) (*Pulled from consent by Councilor Werner*)

Action: Item to be discussed at the end of the agenda.

Consent Resolutions

- 19. Resolution re-adopting the Beneflex plan and authorizing the City Manager to execute Beneflex plan documents.
- 20. Resolution rescinding bond authorization in the amount of \$1,364,340.10 by the City of Concord for the use by the Concord School District; together with report from the Deputy City Manager Finance.
- 21. Resolution authorizing the City Manager to submit an application to the NH Division of Historical Resources for Certified Local Government (CLG) funds to be utilized for the conduct and preparation of a study of historic carriage houses and urban barns within the West End Neighborhood; together with report from the City Planner.
- 22. Resolution authorizing the City Manager to enter into an amended and restated lease agreement between the City of Concord and the Concord Boys and Girls Club of Greater Concord; together with a report from the Deputy City Manager-Development. (Supplemental report not previously distributed)
- 23. Resolution authorizing the City Manager to submit an application for up to \$73,000 to the Federal Aviation Administration (FAA) and the New Hampshire Department of Transportation (NHDOT), Division of Aeronautics grant funds for the purpose of the installation of frangible mounts and a light becon on the localizer for runway 17/35 at the Concord Municipal Airport; together with report from Engineering.
- 24. Resolution authorizing the City Manager to submit an application for up to \$1,340,000 to the Federal Aviation Administration (FAA) and the New Hampshire Department of Transportation (NHDOT), Division of Aeronautics grant funds for the purpose of constructing the eastern portion of the parallel taxiway for runway 12/30 at the Concord Municipal Airport; together with report from Engineering.

Consent Communications

- 25. Street closure request from the Concord Family YMCA in order to hold a block party on Friday, May 17, 2013.
- 26. Street closure request for the Concord High School Levee to be held on June 13, 2013.

Appointments

- 27. City Manager's proposed reappointments to the Library Board of Trustees. *Jeremy Clemans and Megan DeVorsey*
- 28. City Manager's proposed reappointments to the Conservation Commission. *Christopher Morgan, Christopher Kane and Frederick Chormann, Jr.*

End of Consent Agenda

29. April 8, 2013 Public Hearings

A. 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. (2-7) (3-10) (*Public hearings to be held in March and April; action to be taken in May*)

Action: Mayor Bouley pointed out that this is the second of two public hearings for this item. The Mayor opened the public hearing.

Public Testimony

Allan Herschlag, resident, noted that he had written a piece making a suggestion as to how the assessment could be mitigated and also suggested that a "no" vote not to accept the assessment would stop it. He noted that he now understands, after talking to the Mayor and the Director of DRA, that a "no" vote would only change it for next year and what is currently in place cannot be mitigated by the city and can only be mitigated by property owners either appealing or asking for an abatement. Mr. Herschlag noted that he feels that this couldn't have come at a worst time, raising costs to downtown businesses at the time when both downtowns are going to be starting long term construction projects and business may recede during this period. He stated that they are also placing an undue burden on the commercial properties enforcing them to correct mistakes that the city has made. He noted that the question now is what does the city do, how do they fix this to make this fair to the city's commercial businesses. He urged the Council to find a solution that is fair not only for the commercial properties but also the community as a whole.

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

Mayor Bouley directed a question to City Solicitor Jim Kennedy noting that he had informed the City Manager that this item will be acted upon at the next Council meeting. He asked for an explanation as to why Mr. Kennedy has come to this conclusion noting that it is his recollection that every year that they have done this, they have always taken action following the second public hearing. Mr. Kennedy stated that the statute sets forth the procedure of the requirement for two

hearings. He noted that there is a timeframe set forth in the statute that requires the delay. He asked whether he could take this under advisement and before deliberation he can review the statute specifically to confirm the appropriate time. **See end of item I for City Solicitor's response.

B. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, by amending Schedule I of Article 1-5, Fees, Fines and Penalties; together with report from the Deputy City Manager – Finance. (3-11)

Action: There being no Council objection, hearings B and C were read together.

City Manager Tom Aspell provided a brief overview of both items B and C.

Mayor Bouley opened the public hearings for both items B and C. There being no public testimony, the Mayor closed the hearings.

C. Non-ordinance fees. (3-12)

Action: Public hearing for this item taken with item B.

D. Capital Improvement Program (CIP) Out Years. (3-13)

Action: City Manager Tom Aspell provided a brief overview.

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

E. Resolution appropriating the sum of \$18,000 for the purchase and installation of seven self-operable lifts and accessories to be located at each of the community's seven swimming pools; together with report from the General Services Director. (3-14)

Action: City Manager Tom Aspell provided a brief overview.

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

F. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing and Parking; Section 18-1-6, Parking Prohibited at All Times in Designated Places, Schedule I; amending parking on District 5 Road; together with report from the Parking Manager. (3-15)

Action: City Manager Tom Aspell provided a brief overview explaining that this ordinance would correct a previously incorrect ordinance and signage that didn't conform to that ordinance. Referencing the bottom diagram for the no parking, Mr. Aspell noted that the sides to the right or to the east as Dimond Road

connects to District 5 Road, the two sections of no parking 30 feet would not be done because he feels that would eliminate too much parking. He stated that he is suggesting that Council approve the ordinance as proposed but essentially what they would have is the no parking at the end of District 5 Road and at the intersection of Dimond Road which would protect the ability for the school buses to turn around but also leave enough parking for the neighborhood and the area for people to visit.

Mayor Bouley asked whether the Parking Committee is recommending the bottom map out of the two maps. Mr. Aspell responded yes but that the two no parking 30 feet sections on the right hand side along District 5 Road to the right would be crossed out.

Mayor Bouley opened the public hearing.

Public Testimony

Roy Schweiker, resident, noted that he would like to recommend that if the city is going to remove the no parking signs, that they specifically mark the end of the city right of way so people will know where they can park legally and not be on someone else's property. He stated that it might be wise to do a little bit of maintenance out here and place some gravel in the areas in which the city want people to park.

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

G. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing, and Parking; Section 18-1-6, Parking Prohibited at all Times in Designated Places, Schedule I; Whitney Road; together with reports from the Traffic Engineer and the Parking Committee in response to a communication from Richard Uchida, Hinckley Allen Snyder LLP on behalf of Interchange Development, LLC and Drake Petroleum Company, Inc. requesting a no parking zone on Whitney Road in an area to be developed for a convenience store and service station. (11-8) (3-16)

Action: City Manager Tom Aspell provided a brief overview.

Councilor Blanchard inquired whether it's anticipated that there will be room in that parking lot for trucks to pull into. Mr. Aspell responded yes.

Councilor McClure asked if, the way this is written, this ordinance would go into effect if it's passed this evening even if the development is not constructed. Mr. Aspell indicated that to be correct.

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

H. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing, and Parking; Section 18-1-6, Parking Prohibited at All Times in Designated Places, Schedule I; Bradley Street; together with report from the Traffic Engineer. (3-17)

Action: There being no Council objection, both H and I were read together.

City Manager Tom Aspell provided a brief overview of both items H and I.

Mayor Bouley opened the public hearings for items H and I.

Public Testimony

Roy Schweiker, resident, noted that he just wanted to bring attention to the fact this is a two way street that is twenty two feet wide and it is being deemed that parking should not be allowed on either side for traffic reasons even though the street is a dead end.

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

I. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 17, Vehicles and Traffic; Section 17-4-3, One-Way Streets, Schedule VI, Bradley Street. (3-18)

Action: Public hearing for this item taken with item H.

**Response to Public Hearing A question from Legal Department – City Solicitor Jim Kennedy indicated that RSA 75:8-b is a statute that employs or permits a municipality with a population of more than 10,000 to engage in this annual appraisal process. He stated that the NH Legislature considers this to be an important issue and requires two public hearings. He explained that in addition to the two public hearings it states expressly in the statute that after holding two public hearings the authorization vote of the City Council must wait at least fifteen days and not more than sixty days.

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30. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, by amending Schedule I of Article 1-5, Fees, Fines and Penalties; together with report from the Deputy City Manager – Finance. (3-11)

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

Councilor St. Hilaire noted his concern with the stick and puck fee increasing from \$8.00 to \$9.00. He stated that if its adults doing it during the day time, he doesn't have a problem with it. Mr. Aspell indicated that it was day time stick and puck.

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Councilor Nyhan noted that he believes the time is from 11:00 a.m. to 12:00 p.m. Monday through Friday.

Councilor St. Hilaire noted that he assumes that its adults going there and not kids going there after school.

The motion to approve passed with one dissenting vote.

31. Non-ordinance fees. (3-12)

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

32. Capital Improvement Program (CIP) Out Years. (3-13)

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

Councilor Kretovic questioned as to when an item comes out of the CIP if there is an item that has already been completed. Mr. Aspell responded that it is when he does the next one. Councilor Kretovic noted that the bike master plan has been completed.

The motion to approve passed with no dissenting votes.

33. Resolution appropriating the sum of \$18,000 for the purchase and installation of seven self-operable lifts and accessories to be located at each of the community's seven swimming pools; together with report from the General Services Director. (3-14)

Action: Councilor Nyhan moved approval. The motion was duly seconded and passed on 14 to 0 on a roll call vote with Councilors Bennett, Blanchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady Sexton, Keach, Kretovic, McClure, Nyhan, Patten, St. Hilaire, Shurtleff and Werner voting yes.

34. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing and Parking; Section 18-1-6, Parking Prohibited at All Times in Designated Places, Schedule I; amending parking on District 5 Road; together with report from the Parking Manager. (3-15)

Action: Councilor Nyhan moved to approve the no parking changes as described by the City Manager in regards to the second diagram. The motion was duly seconded.

Councilor Coen inquired as to the timeline in which this will be implemented. Mr. Aspell responded that it may take a few weeks for the signs to be made, if none are in stock.

Councilor Nyhan's motion was approved with no dissenting votes.

35. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing, and Parking; Section 18-1-6, Parking Prohibited at all Times in Designated Places, Schedule I; Whitney Road; together with reports from the Traffic Engineer and the Parking Committee in response to a communication from Richard Uchida, Hinckley Allen Snyder LLP on behalf of Interchange Development, LLC and Drake Petroleum Company, Inc. requesting a no parking zone on Whitney Road in an area to be developed for a convenience store and service station. (11-8) (3-16)

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

Councilor McClure noted that the development is contingent upon the city stopping parking. She noted that they may be passing an ordinance that will direct the city to set up a no parking zone and put up signs but they don't know for sure that this development is actually going to be built. She wondered that, instead of the ordinance taking effect upon passage, should it take effect upon the issuance of a CO for the proposed development.

Carlos Baia, Deputy City Manager-Development, noted that he knows that parking has been an issue on this street in the past. He noted that it is his understanding that this development is moving forward.

Councilor McClure indicated that they have done other things in the past in anticipation of developments that never happen. She stated that if there is some good reason not to make it effective when the development is built she would like to hear that. Mr. Baia noted that the approval letter reads "prior to the issuance of certificate of occupancy."

Councilor McClure moved to change the ordinance from taking effect upon passage to upon issuance of the certificate of occupancy. The motion was duly seconded.

Councilor Blanchard noted that she accepts this amendment to her motion.

Councilor Kretovic indicated that the Parking Committee had looked at this from the perspective that there have been complaints and she would be more supportive of the ordinance passing without the restriction of the occupancy permit.

Councilor Coen wants to be clear that this would no way hamper the developer moving forward.

Councilor Keach stated that regardless of what happens, parking is going to be an issue and feels that it makes sense just to pass this ordinance as proposed.

Councilor Nyhan seconded the amendment.

Following additional Council discussion, Councilor McClure's amendment failed on a show of hands vote with four voting for the amendment and 9 voting against the amendment.

Councilor Blanchard's motion to accept the ordinance passed with two dissenting votes.

36. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing, and Parking; Section 18-1-6, Parking Prohibited at All Times in Designated Places, Schedule I; Bradley Street; together with report from the Traffic Engineer. (3-17)

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

37. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 17, Vehicles and Traffic; Section 17-4-3, One-Way Streets, Schedule VI, Bradley Street. (3-18)

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

Reports

New Business

Unfinished Business

38. Resolution approving the granting of a conservation easement to the Society for the Protection of New Hampshire Forests (SPNHF) on approximately 114 acres of land southerly and easterly of Gully Hill Road, as approved by the Conservation Commission; together with report from the Conservation Commission. (6-17) (7-36B; 7-38) (8-53) (9-39)(10-31) (11-43) (12-42) (1-52) (2-49) (3-37) (Action on this item tabled following a July 9, 2012 public hearing)

Action: Item remains tabled.

39. Resolution amending the official map so as to establish the mapped lines of a future street for a new street from the intersection of Storrs and Theatre Streets southerly to Langdon Avenue; together with report from the Assistant City Planner. (1-16) (2-33I; 2-42) (3-39) (Public hearing held in February 2013 – item tabled)

Action: Item remains tabled.

Comments, Requests by Mayor, City Councilors

Councilor Werner noted that the energy chapter of the master plan is in final draft form. He indicated that this will be part of the Planning Board's agenda on April 17th. He thanked the Energy Committee members for their diligent work and also thanked Becky Hebert from Planning for all of her work.

Councilor Keach noted he wanted to comment in terms of the whole assessing debate and make clear to the public that the Council has a very limited role in the whole assessment process.

Comments, Requests by the City Manager

40. Discussion regarding meeting minutes for various boards and commissions within the City of Concord.

Action: City Manager Tom Aspell indicated that there are links to meeting minutes and agendas of the various boards and committees on the city's website.

Consideration of items pulled from the consent agenda for discussion

Items 16 and 18a have been pulled from the consent agenda for discussion.

16. Committee report on the Finance Committee budget schedule and adoption date. (*Pulled from consent by Mayor Bouley*)

Action: Mayor Bouley distributed an alternate budget schedule that he drafted. He explained that, in reviewing the schedule, he pointed out that the current proposed schedule has the first meeting during the Rock and Road Race event which closes down the streets surrounding the City Hall complex and makes it hard for the residents to find parking for the meeting. Referencing his alternate schedule, the Mayor indicated that he tried to limit the number of meetings to be more efficient with the time, trying to combine some efforts and also eliminating the Thursday evening meetings. He highlighted the alternate schedule dates pointing out that most of the meetings would be held on Mondays with one being held on a Saturday, June 8th from 8:00 to noon. He noted that this gives the opportunity for people that can't attend a meeting during the evening to attend the meeting on a Saturday.

Referencing the alternate schedule, Councilor Coen pointed out that Monday, June 3rd is scheduled for Fire, Police and General Services and Saturday, June 8th is scheduled for Administration, Community Development, etc. He wondered if the Fire, Police and General Services would have more interest for the community.

Mayor Bouley indicated that is a great suggestion and noted that it could be rearranged.

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Councilor Nyhan stated that he likes the alternate schedule and the elimination of Thursday evening meetings. Referencing a Saturday meeting, he noted that this gives the community the opportunity to attend.

Councilor Blanchard pointed out that the report indicates that the meetings begin at 6:30 p.m. but the schedule indicates that they begin at 7:00 p.m.

Mayor Bouley noted that, prior to last year, they were meeting at 6:30 p.m. and last year they had changed it back to 7:00 p.m.

The Council agreed that they liked the alternate budget schedule being proposed.

Following discussion, the Council agreed with reversing the dates of departments meeting on June 3rd and June 8th. June 3rd would be Administration, Community Development, etc. and June 8th would be Fire, Police and General Services.

Councilor Nyhan moved to change the Finance Committee budget schedule as discussed and replacing the proposed June 3rd schedule and June 8th schedule and reversing those two. The motion was duly seconded and passed with no dissenting votes.

18a.Reports from the Planning Board and Conservation Commission in response to a communication from McKenna's Purchase Northern Pass Committee seeking the city's assistance in regards to the Northern Pass Project. (1Sus2) (*Pulled from consent by Councilor Werner*)

Action: Councilor Werner noted that many people perceive this as a northern New Hampshire situation in terms of impact but it does impact the city also. He indicated that he hopes that in future months there will be many opportunities for Concord residents to have input into the project as it moves along because it does have an impact, whether visually or environmentally on the Concord community. Councilor Werner moved to accept the reports. He thanked the Conservation Commission and the Planning Board for the work that they have done; he also recognized the people at McKenna's Purchase for letting their concerns be known.

Following brief discussion, Councilor St. Hilaire noted that he viewed accepting the report as only accepting the report and not adopting any particular position. He noted that if they do want to adopt a position he suggests doing so in the future.

Mayor Bouley noted that it's his interpretation that by accepting these reports the Council is acknowledging that they have received them.

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

Consideration of Suspense Items

Councilor Nyhan moved to consider the suspense item not previously advertised. The motion was duly seconded and passed with no dissenting votes.

4 Sus1 Referral to the Legal Department and the Public Safety Advisory Board

Communication from Downtown Merchants requesting a more defined and stricter enforcement of panhandling laws in the City of Concord.

Action: Councilor Nyhan moved to refer this communication to the Legal Department and the Public Safety Advisory Board. The motion was duly seconded and passed with no dissenting votes.

Adjournment

The time being 8:12 p.m., Councilor Nyhan moved to enter into non-public meetings in accordance with RSA 91-A:2, I (a) to discuss the status of collective bargaining negotiations and RSA 91-A: 3, II (d) to discuss property sale and/or acquisition. The motion was duly seconded and passed with no dissenting votes.

A true copy; I attest:

Michelle Mulholland Deputy City Clerk