



***Non-public sessions in accordance with RSA 91-A: 3, II (d) to discuss property acquisition and contract negotiations, followed by a meeting with legal counsel in accordance with RSA 91-A:2, I (b) to be held at 5:30 p.m.***

City Council Meeting  
**Minutes**  
**January 13, 2014**  
City Council Chambers  
7:00 p.m.

1. The Mayor called the meeting to order at 7:00 p.m.
2. Invocation by Father Richard Roberge, Christ the King Parish
3. Pledge of Allegiance.
4. Roll Call. Councilors Bennett, Bouchard, Mayor Bouley, Councilors Champlin, Coen, Grady Sexton, Herschlag, Keach, Matson, McClure, Nyhan, St. Hilaire, Shurtleff, Todd and Werner were present.
5. Approval of the December 9, 2013 Meeting Minutes.

**Action:** Councilor Grady Sexton moved approval of the December 9, 2013 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

6. Agenda overview by the Mayor. The Mayor recognized two Boy Scouts from Troop 83, AJ Franklin and Alex Tibbets, attending the meeting to receive their citizenship merit badge.

***- Consent Agenda Items -***

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

**Action:** Councilor St. Hilaire moved approval of the consent agenda with item 24 being removed for discussion at the end of the agenda. The motion, as amended, was duly seconded and passed with no dissenting votes.

**Referral to the Recreation and Parks Advisory Committee and the Transportation Policy Advisory Committee**

7. Communication from Matt Elliott, President, Friends of White Park, requesting that the City of Concord investigate the removal of the bus lane within the parking lot at White Park when planning a potential new skate house.

**Referral to the Traffic Operations Committee**

8. Communication from Ted Kendziora, Concord resident, requesting consideration be given to installing a stop sign at the corner of Peterson Circle and Governors Way in Concord.

**Items Tabled for a February 10, 2014 Public Hearing**

9. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 29.2, Public Capital Facilities Impact Fees Ordinance; Section 29.2-1-2, Assessment and Collection; together with report from Acting City Planner.
10. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking, Storrs Street; together with report from the Director of Redevelopment, Downtown Services & Special Projects.
11. Resolution authorizing the City Manager to enter into a Municipal Agreement with the New Hampshire Department of Transportation (NHDOT) for Highway Safety Improvement Program (HSIP) funding, all part of the design and construction of the Loudon Road Corridor Improvements Project (CIP #19); together with report from the Traffic Engineer.
12. Resolution accepting and appropriating the sum of \$1,600,000 in Matched Highway Safety Improvement Program (HSIP) Funds from the New Hampshire Department of Transportation (NHDOT) for the purpose of design and construction of Phase I Traffic Safety Improvements for the Loudon Road Corridor Improvements Project (CIP #19), including \$1,440,000 in NHDOT Grant Funds and authorizing the issuance of bonds and notes of up to \$160,000 for the local match portion of the project.
13. Resolution amending and restating the Development Program and Financing Plan for the North End Opportunity Corridor Tax Increment Finance District (NEOCTIF) ; together with a report from the Director of Redevelopment, Downtown Services, & Special Projects.
14. Resolution authorizing the City Manager to enter into a Purchase and Sales Agreement with Tsunis Holdings, Inc. for real estate located on Storrs Street and appropriating the sum of \$1,050,000 including \$450,000 from NEOCTIF

undesignated fund balance and the issuance of \$600,000 in NEOCTIF supported bonds and notes, to facilitate acquisition of property and related activities.

15. Resolution accepting and appropriating the sum of \$23,300 in grant funding from the Department of Safety, State Homeland Security and Emergency Management Exercise and Evaluation Program, for funding of a Homeland Security Exercise in conjunction with Concord Hospital; together with report from the Police Department. (10-23)
16. Resolution accepting and appropriating the sum of \$21,621 from the New Hampshire Charitable Foundation for management and maintenance of municipal property; together with report from the Deputy City Manager – Finance.

**From the City Manager**

17. Positive Citizen Comments.

**Consent Reports**

18. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$2,160.12 as provided for under the preauthorization granted by City Council.
19. Diminimus gifts and donations report from the Human Services Director requesting authorization to accept monetary gifts totaling \$400 as provided for under the preauthorization granted by City Council.
20. Report from the Deputy City Manager – Finance outlining the Fiscal Policy Advisory Committee’s (FPAC) recommendation on the FY2015 tax rate target.
21. Report from the City Treasurer regarding the December 10, 2013 bond sale.
22. Report from the Fire Chief on an updated on recent events for the Capital Area Mutual Aid Fire Compact.
23. Report from the City Engineer recommending that the City Manager be authorized to accept a public sidewalk easement deed across a portion of land owned by PRM Holdings, LLC, and known as 39 – 49 North Main Street.; a public sidewalk easement deed across a portion of land owned by TPC, Inc., and known as 125 North Main Street; and a public drainage easement deed across a portion of land owned by the Chester A. Hoadley and the Elizabeth K. Hoadley Irrevocable Trusts, and known as 72 West Parish Road.
24. Report from the City Solicitor in response to a report from the Planning Board in response to a communication from Nicholas Golon, TFM, on behalf of their client, Public Service Company of New Hampshire (PSNH) recommending that the City

Manager be authorized to execute a release of an existing right of way easement deed across land owned by PSNH in Concord, tax map 122, block 2, lot 28, easterly of Farmwood Road. (8-11) (11-23) (*Pulled from consent and referred to Planning and Legal Department at the November 12, 2013 Council meeting*) (***Pulled from the consent agenda by Councilor McClure***)

**Action:** Item removed from the consent agenda for discussion.

25. Report from the Recreation and Parks Advisory Committee in response to a communication from Bob Hatch asking that City Council consider renaming the courts at Keach Park, Hatch Courts, in memory of his father Paul O. Hatch. (8-9)
26. Report from the Zoning Administrator on behalf of the Zoning Board of Adjustment requesting that the City review its existing sign regulations, Article 28-7, to address whether it is appropriate to amend the current regulations as they pertain to “scroller” signs.

### **Consent Resolutions**

27. Resolution in recognition of the services of Elizabeth Blanchard. (*For presentation in February*) (*Revised resolution submitted*) (***Revised resolution submitted***)
28. Resolution in recognition of the services of Michael DelloIacono. (*For presentation in February*)
29. Resolution in recognition of the services of Jennifer Kretovic. (*For presentation in February*)
30. Resolution in recognition of the services of Richard Patten. (*For presentation in February*)
31. Resolution authorizing the City Manager to accept a gift of 12.507 acres of land from Public Service of New Hampshire for conservation purposes and to merge properties; together with report from the Assistant City Planner.
32. Resolution authorizing the City Manager to apply for up to \$45,000 to the New Hampshire Department of Environmental Services for Household Hazardous Waste Collection and Special Project Grants; together with report from the General Services Director.
33. Resolution authorizing the City Manager, by way of the Human Resources Department, to submit an application to the New England ADA Center to become the recipient of a hands on field-based training day for up to 20 participants and a \$1,000 grant toward improving accessibility under the Americans with Disability Act (ADA); together with report from the Human Resources Department Safety and Training Coordinator.

**Consent Communications**

**Appointments**

34. City Manager's proposed reappointment to the Board of Trustees of Trust Funds.  
*Jeffrey L. Schindler*

**From the Mayor**

35. City Council committee appointments.

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

**36. January 13, 2014 Public Hearings**

- A. Resolution authorizing the transfer of \$618,788.14 from Committed Fund Balance to Assigned Fund Balance; and to authorize the transfer of \$1,553,788.14 from Assigned Fund Balance to the General Fund Operating Budget; and to appropriate \$545,000 as a transfer to Trust Fund Reserves; and to authorizing the use of \$1,008,788.14 as allowance for abatements; all for the purposes listed herein, funding for this appropriation shall be entirely from the FY2013 General Fund Assigned Fund Balance; together with report from the Deputy City Manager – Finance. (12-10)

**Action:** There being no Council objection, public hearing items A, B and C were read together.

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

Councilor Keach asked what would happen once these transfers are made of the \$1.5 million and there are abatements that are allowed by court; would they come back to Council for approval or is it automatic. Brian Lebrun, Deputy City Manager-Finance, explained that once the Council appropriates the money there is a portion, the \$1,008,788.14, which is allocated towards allowance for abatements. He noted that it does not come back to Council again.

Councilor Herschlag asked if he was correct in understanding that \$1 million of those dollars goes back to the mall for an abatement that's been contested for some time. Mr. LeBrun responded that the settlement with the mall was \$1.6 million and the payment of \$1 million that was paid immediately and there is another \$600,000 that would be paid at the end of this fiscal year; that \$600,000 would be coming out of this portion of money that would be put towards those allowances for abatements. Councilor Herschlag asked if staff could explain how the city ended up owing that \$1.6 million and whether there are any steps that can be taken in the future that would lessen the possibility of this happening again. City Solicitor Jim Kennedy indicated that the \$1.6 million, as was reported in the

paper last week, was a result of a settlement for four tax years of litigation involving the Steeplegate Mall. He explained that much of the reason for the abatement was that the mall, for those tax years, was determined to be overvalued and as a result the city determined that a settlement was the appropriate manner to resolve the matter outside a judicial proceeding. He stated that as a part of this settlement it's important to note that the city will be receiving the financial information from the Steeplegate Mall prior to setting the assessed value for the mall going forward for future years. He noted that this will be very helpful for the city in determining the proper assessed value as of April 1<sup>st</sup> of each tax year.

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

- B. Resolution appropriating \$55,000 as a supplemental appropriation to the City's General Capital Improvement Fund for the purpose of HVAC improvements at the City's Fire Stations, CIP #325, funding for this appropriation shall be entirely from the Building Improvements Reserve Account. (12-11)

**Action:** Public hearing for this item taken with public hearing item A.

- C. Resolution appropriating \$90,000 from Trust Fund Reserves as a supplemental appropriation to the City's General Fund for the purposes of equipment replacement and education and training, and to transfer \$1,056.39 from the 53<sup>rd</sup> Week and Revaluation Reserves to the Highway Reserve, funding for these purposes shall be entirely from Trust Fund Reserve Accounts. (12-12)

**Action:** Public hearing for this item taken with public hearing item A.

- D. Resolution authorizing the City Manager to submit an application in an amount of up to \$500,000 and to accept and appropriate grant proceeds of up to \$500,000 in Community Development Block Grant Funds of behalf of the National Alliance on Mental Illness New Hampshire, (NAMI NH); together with a report from the Director of Redevelopment, Downtown Services, & Special Projects. (12-13)

**Action:** There being no Council objection, public hearing items D and E were read together.

City Manager Tom Aspell provided a brief overview of items D and E.

Matt Walsh, Director of Redevelopment, Downtown Services & Special Projects, in regards to the public hearing on proposed NAMI expansion CDBG application, explained that Community Development Block Grant funds are available to municipalities through the NH Community Development Finance Authority. Up to \$500,000 annually is available on a competitive basis for economic

development, up to \$500,000 for public facility and housing projects and up to \$500,000 for emergency activities that directly benefit low and moderate income persons. Up to \$12,000 is available for feasibility study grants. All projects must primarily benefit low and moderate income persons. The purpose of this public hearing is a proposed application to the Community Development Finance Authority for up to \$500,000 for the National Alliance on Mental Illness (NAMI), located at 85 North State Street, Concord, to make improvements to their facility, including renovating the garage into a meeting room. The majority of the persons served by NAMI are of low and moderate incomes. This project conforms with Concord's Housing and Community Development Plan's Goal of: Continue to provide rehabilitation assistance to social service agencies directly serving low and moderate income clients, to upgrade facilities, to correct code violations, to improve handicapped accessibility and to improve energy conservation.

Mr. Walsh, in regards to the public hearing on the Residential Antidisplacement and Relocation Assistance Plan, explained that although this project does not involve any displacement or relocation of persons or businesses, if the City were to undertake a CDBG project which involved displacement or relocation they would follow this plan. The plan outlines the measures they would take to find comparable, suitable housing for persons (or businesses) displaced or relocated.

Mayor Bouley opened the public hearings for items D and E.

### **Public Testimony**

Dick Chevrefils, volunteer vice president of NAMI NH, thanked the Council for considering their application for the Community Development Block Grant. He indicated that they are hoping to establish an accessible community education space to support families and individuals who are challenged with mental illness.

Councilor Coen inquired as to how many people NAMI serves in the Concord community. Susan Sterns, NAMI staff, responded that last year statewide they served over 12,000 individuals. She noted that their facility is located at 85 North State Street and one of the things that they have seen since moving to that site eighteen months ago is a significant increase in the number of drop ins. She added that they do have support groups in Concord that would benefit and could be expanded upon through this project.

There being no further public testimony, the Mayor closed the hearings for items D and E.

- E. Resolution readopting the City's Displacement and Relocation Policy Statement and Procedures. (12-14)

**Action:** Public hearing for this item taken with public hearing item D.

**January 13, 2014 Public Hearing Action**

37. Resolution authorizing the transfer of \$618,788.14 from Committed Fund Balance to Assigned Fund Balance; and to authorize the transfer of \$1,553,788.14 from Assigned Fund Balance to the General Fund Operating Budget; and to appropriate \$545,000 as a transfer to Trust Fund Reserves; and to authorizing the use of \$1,008,788.14 as allowance for abatements; all for the purposes listed herein, funding for this appropriation shall be entirely from the FY2013 General Fund Assigned Fund Balance; together with report from the Deputy City Manager – Finance. (12-10)

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

38. Resolution appropriating \$55,000 as a supplemental appropriation to the City's General Capital Improvement Fund for the purpose of HVAC improvements at the City's Fire Stations, CIP #325, funding for this appropriation shall be entirely from the Building Improvements Reserve Account. (12-11)

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

39. Resolution appropriating \$90,000 from Trust Fund Reserves as a supplemental appropriation to the City's General Fund for the purposes of equipment replacement and education and training, and to transfer \$1,056.39 from the 53<sup>rd</sup> Week and Revaluation Reserves to the Highway Reserve, funding for these purposes shall be entirely from Trust Fund Reserve Accounts. (12-12)

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

40. Resolution authorizing the City Manager to submit an application in an amount of up to \$500,000 and to accept and appropriate grant proceeds of up to \$500,000 in Community Development Block Grant Funds of behalf of the National Alliance on Mental Illness New Hampshire, (NAMI NH); together with a report from the Director of Redevelopment, Downtown Services, & Special Projects. (12-13)

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

41. Resolution readopting the City's Displacement and Relocation Policy Statement and Procedures. (12-14)

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

### **Appointments by the Mayor**

### **Reports**

### **New Business**

### **Unfinished Business**

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

**Action:** No action taken. This item remains on the table.

43. Ordinance amending the Code of Ordinances, Title III, Building and Housing Codes; Chapter 27, Housing Maintenance and Occupancy Code; Article 27-1, Housing Maintenance and Occupancy Code, Section 27-1-5, Amendments to the International Property Maintenance Code/2009; together with report from Code Administration. (8-14)(9-26C; 9-29) (10-37) (11-41) (12-38) (*Action on this item was tabled after a public hearing was held on September 9, 2013.*)

**Action:** No action taken. This item remains on the table.

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

Councilor Nyhan noted that Raymonds Barber Shop has closed after over 51 years of business. He wished them great success and happiness in retirement.

Councilor Bennett suggested that the Council recycle their agenda envelopes back to the City Clerk's Office to be reused.

City Manager Tom Aspell noted that he is working with the City Clerk on a proposal to bring forward as to how they are potentially going to a paperless agenda system.

Councilor Keach reminded everyone of the Black Ice Hockey Tournament coming up on January 24<sup>th</sup> and 25<sup>th</sup>. He noted that this is a great community event whether or not you like hockey.

Councilor Champlin highlighted the upcoming White Park Winter Festival being held on Saturday, January 18<sup>th</sup>.

Councilor Todd announced that the Concord 250 second public forum is being held on Wednesday, January 22<sup>nd</sup> at 6:00 p.m. in Council Chambers. He explained that this is the group that are helping to coordinate activities associated with Concord's 250<sup>th</sup> birthday, which is the adoption of the city charter, to be held on Sunday, June 7, 2015.

Mayor Bouley indicated that he still has a little work left on the City Council appointments to boards and committees and hopes to have those completed soon.

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

#### **Consideration of items pulled from the consent agenda for discussion**

Item 24 has been pulled from the consent agenda for discussion.

24. Report from the City Solicitor in response to a report from the Planning Board in response to a communication from Nicholas Golon, TFM, on behalf of their client, Public Service Company of New Hampshire (PSNH) recommending that the City Manager be authorized to execute a release of an existing right of way easement deed across land owned by PSNH in Concord, tax map 122, block 2, lot 28, easterly of Farmwood Road. (8-11) (11-23) *(Pulled from consent and referred to Planning and Legal Department at the November 12, 2013 Council meeting)*

**Action:** Councilor McClure indicated that she doesn't have any problem with release of the easement; it's more to do with the policy stated within the report. She stated that she wants to make sure that they will be evaluating, according to the Solicitor's memo, each request individually. She wants to ensure that they will be approaching each easement individually and doing what's best for the city without it being based upon what happened in the past.

City Solicitor Jim Kennedy noted that his memo does recommend a policy for the city to adopt, at the administrative level, to review any release of an easement that the city may have to determine whether or not the city purchased that easement or if there was any consideration made with respect to that easement when the city acquired it or if there were any improvements made to the easement that the city may be entitled to for release of such easement. He pointed out that none of these occurred with respect to the release of this easement, however going forward that administration require that when the city does release the easement that the party benefitting from the release of the easement draft the necessary instruments and pay the recording fee at the registry to make that easement properly released.

Councilor Herschlag thanked Councilor McClure for bringing this up noting that this was an issue that came up during phase two of Langley Parkway and trying to place a value on the right of way before it was turned over to St. Paul's School. He also

thanked the City Solicitor for working on creating a policy for establishing a value for a future right of way.

City Manager Tom Aspell explained that only City Council can accept or release easements and feels that everyone brought to the Council should have an analysis of any improvements that have been made, how it was acquired, associated costs and give an analysis to determine whether or not there should be some compensation; any money that would be received that would be a sale or a release of an easement would go to the general fund to help offset taxes. He noted that Council can decide whether or not, based on the purpose of a release, there needs to be compensation.

Councilor Coen asked if this was something they can do. Mr. Aspell responded that this is what his policy is going forward.

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

### **Consideration of Suspense Items**

### **Adjournment**

The time being 7:42 p.m., Councilor St. Hilaire moved to adjourn the meeting. The motion was duly seconded and passed with no dissenting votes.