



Non-public session in accordance with RSA 91-A: 3, II (d) to discuss property acquisition and a non-public session in accordance with RSA 91-A: 3, II (d) to discuss contract negotiations to be held at 5:30 p.m.

City Council Meeting
Minutes
August 11, 2014
City Council Chambers
7:00 p.m.

1. The Mayor called the meeting to order at 7:00 p.m.
2. Invocation
3. Pledge of Allegiance.
4. Roll Call. Councilors Bennett, Bouchard, Mayor Bouley, Councilors Champlin, Coen, Grady Sexton, Herschlag, Keach, McClure, Nyhan, St. Hilaire and Todd were present. Councilors Matson, Shurtleff and Werner were excused.
5. Approval of the July 14, 2014 Meeting Minutes.

Action: Councilor St. Hilaire moved approval of the July 14, 2014 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

6. Agenda overview by the Mayor.

- Consent Agenda Items -

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

Action: Councilor Nyhan moved approval of the consent agenda with item 9 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 Legal Department, the Police Department and Community Development, Code Administration

7. Request from Councilor Matson that consideration be given to an ordinance prohibiting the use and possession of high powered fireworks within the City of Concord; together with communication from Barbara Bell. (*Communication from Mary Deal submitted*)

Referral to the Legal Department and Community Development, Code Administration

8. Petition from residents of River's Edge Estates asking that the City of Concord provide residents help in removing dilapidated, abandoned and unoccupied mobile homes from their park.

Referral to Community Development, Engineering

9. Communication from residents of A Street in Concord asking that consideration be given to making A Street a public street. (*Pulled from consent by Councilor Matson*)

Items Tabled for a September 8, 2014 Public Hearing

10. Resolution accepting and appropriating the sum of \$4,714 from the New Hampshire Department of Transportation (NHDOT) for a portion of the construction of the municipal water main relocation across the Exit 12 Bridge over I-93; together with a report from the Associate Engineer.

From the City Manager

11. Positive Citizen Comments.

Consent Reports

12. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$2,045.88 as provided for under the preauthorization granted by City Council.
13. Current Use Change Tax Quarterly Report from the Director of Real Estate Assessments.
14. Report from the City Engineer recommending use of completed and unexpended Geographic Information System (GIS) project funds for the replacement of Global Positioning System (GPS) equipment (CIP #297).
15. Semi-Annual Report on Contracted Solid Waste Service and Recycling Services.

Consent Resolutions

16. Resolution authorizing the City Manager or his designee to apply for funding through the Assistance to Fire Fighters Grant Program administered by the Federal Emergency Management Agency; and appropriating funds awarded for this purpose; together with report from the Fire Chief.
17. Resolution making a return of the Perambulation for the Town Line between the City of Concord and the Town of Webster; together with report from the City Surveyor.

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18. Resolution authorizing the City Manager to enter into an agreement with the NH Department of Transportation (NHDOT) to include water and sewer infrastructure improvements in the state contract for the I-93 Exit 12 bridge replacement project at 100% City funding; together with report from the Associate Engineer

Consent Communications

19. Street closure request for the 13th Annual Rock ‘N Race to benefit the Payson Center for Cancer Care to be held on Thursday, May 21, 2015.
20. Street closure request for a White Park Cyclocross Race to be held on Saturday, September 20, 2014.
21. Street closure request for the 9th Annual Multicultural Festival to be held Saturday, September 13, 2014.

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

22. August 11, 2014 Public Hearings

- A. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 9, Water, Article 9-1, Waterworks, Section 9-1-12 Cross-Connection Control; together with report from the Director of General Services. (7-7)

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.

- B. Resolution accepting and appropriating a \$50,000 donation from Unitil to be used for lighting improvements at the Concord City Auditorium; together with report from the Deputy City Manager – Finance. (7-8)

Action: City Manager Tom Aspell provided a brief overview.

Mayor Bouley opened the public hearing.

Public Testimony

Carol Bagan, on behalf of the Friends of the Concord City Auditorium, urged the Council to accept this grant. She stated that they are very thankful to General Services and Deputy City Manager-Finance Brian LeBrun for their assistance in these projects. She indicated that the lighting upgrade project is to change the system over to LED which will save a great number of kilowatt hours translating into a great dollar savings. She thanked Unitil and Gary Miller of Unitil for this donation.

Mayor Bouley inquired as to how someone could “pitch in” for the Audi.

Ms. Bagan explained that from 9:00 a.m. to noon and 6:00 p.m. to 9:00 p.m. next Monday, Tuesday and Wednesday people can just show up at the Auditorium to help “pitch in” and volunteer.

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

August 11, 2014 Public Hearing Action

23. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 9, Water, Article 9-1, Waterworks, Section 9-1-12 Cross-Connection Control; together with report from the Director of General Services. (7-7)

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

24. Resolution accepting and appropriating a \$50,000 donation from Unitil to be used for lighting improvements at the Concord City Auditorium; together with report from the Deputy City Manager – Finance. (7-8)

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

Reports

25. Citywide Multi-generational Community Center report, CIP #443, from the Director of Redevelopment, Downtown Services & Special Projects.

Action: Matt Walsh, Director of Redevelopment, Downtown Services & Special Projects, provided an overview explaining that the purpose of the report is to update the Council as to where staff is with this project and to give information in regards to feedback that they received from stakeholders and the general public regarding the space program that was developed in 2011. He indicated that based on the concept that was produced in 2011 and the current CIP which was adopted by the Council this past June, there’s a construction budget of \$11.4 million of which \$1.125 million would be donations. He stated that the stakeholders and the general public affirmed the space program of 2011 but did make some recommendations: expand the size of the gymnasium to serve collegiate needs; an elevated walking track; immigration resource center; public library component; host Concord TV’s headquarters/studio space. He pointed out that these items were not included in the 2011 space program so they may have impacts on the construction budget as well as the operating budget and business pro forma going forward. He stated that they will be looking at these in detail as they get into the schematic design.

Mr. Walsh added that the plan that was accepted by the Council in 2011 was predicated on keeping portions of the old Dame School and, given some of the things that the community

has asked for, he indicated that it might make more sense to actually consider demolishing the entire former school building and starting from scratch with a new facility. He noted that the community was open to entertaining that because of the possible efficiencies that could be achieved, not only in building layout and square footage, but also maybe in energy savings and other things. The community also asked the city to explore preserving and salvaging any architectural details that might be of value in the existing building.

Mr. Walsh explained that what they are looking for from the Council this evening is: getting direction and feedback regarding suggestive changes and additions to the space program that the stakeholders and public made; feedback regarding possible complete demolition of the existing Dame School and pursuing a new building; concurrence about the RFP process that City Administration plans to undertake for searching for a daycare/preschool provider as well as a fundraising consultant; acceptance of the preliminary project schedule set forth in the report. As far as the staff's recommendation, he indicated that they believe that it's worth exploring all the suggestions that the public has made and getting their arms around those both from a capital cost and operating cost; they would take care of this during the schematic design process this fall and come back to the Council in either December or January with a full review of all those options including financial analysis. He added that they would also come back with options and explore replacing the current building with a completely new structure and move forward with the issuance of the RFP's for the preschool operators as well as a fundraising consultant.

Councilor Coen inquired as to the square footage in the area known as the goldenrod area within the existing structure. Mr. Walsh responded that it's just under 19,000 square feet. Councilor Coen questioned whether one of the proposals is to demolish this. Mr. Walsh responded that why they are considering that is because they are interested in looking at doing something to give more of a rectangular box, giving a more efficient layout getting rid of some of the dead spaces in between. He confirmed that this is the section that they are talking about. Councilor Coen asked whether that 19,000 square feet would be replaced with another 19,000 square feet of new space. Mr. Walsh responded that he is not sure that it would be exactly 19,000 square feet but the intention would be the functions that are envisioned for those spaces that were envisioned for 2011.

Referencing a photo on the projector screen, Councilor St. Hilaire asked whether that photo included the concept recommended for a collegiate style gym. Mr. Walsh responded no explaining that there has always been one gym as part of the program; they are just showing a potential future expansion if another gym was ever needed for the city. He noted that it's his understanding that a collegiate style gym would require another 1,500 or 2,000 square feet of space. Councilor St. Hilaire stated that it's his understanding that Meals on Wheels may use this facility to help with their meals. Mr. Walsh indicated that there has been some suggestion that they might be interested in using the kitchen pointing out that there is a difference between a full blown commercial kitchen and a catering kitchen and that is something that they will need to talk a bit more about in the next several months.

Councilor Champlin recalled that, at the public meeting, a comment was made that the bones of the original 1940's building was good and that the existing auditorium space lent itself nicely to some of their contemporary views on public performance space. Mr. Walsh replied that is a fair statement; the portion of the building that was slated to be preserved in 2011, from a structural point of view, is in fairly decent shape; the roof on the 1965 wing of classrooms is starting to go and will need to be replaced. He stated that the reason why they are suggesting looking at the option of demolishing the entire building and starting from scratch is to get more efficient space, it may help with construction budget, it may help with operating costs, and it may give them more long term flexibility of how they could expand the facility in the future. Councilor Champlin noted that he hopes staff takes a hard look at preserving the original 1940's building because it presents a signature look for that neighborhood.

Councilor Nyhan noted that he remains concerned about the cost and wondered if somebody could talk about how they are going to afford this project relative to bonded debt, what they are incurring with this project and what the net impact is on the taxpayer. Mr. Aspell indicated that they will look at it to see where it can fit into the capital budget once Council makes a decision of what they want to build and when they want to build it. He stated that it would push them above the levels that they are at now noting that they haven't gone above those levels in a very long time. His real concern is the ongoing operating costs moving forward. He stated that they could create a facility that has extensive operating costs and capital costs but doesn't bring in much revenue to offset those costs; or they may go another direction and try to bring in some off setting revenues.

Councilor Nyhan stated that he doesn't feel comfortable with voting on the schedule until he knows what the costs are going to be. Mr. Aspell explained that the challenge is going to be for the staff to bring the Council viable financial program that's going to show that this is going to work in a reasonably efficient way.

Mayor Bouley pointed out that, within the report, it indicates that it's a tentative schedule and feels that there are a lot of fail safes.

Councilor Nyhan stated that he recognizes that it's tentative but was trying to think forward.

Councilor Keach stated that he is in favor of this project and his thinking on this report is whether they want this to go forward. How it's paid for and what it looks like comes later.

Councilor Herschlag asked when staff comes back to Council, with some of the more specific elements and looking at the difference between keeping the older facility as opposed to all new, whether they are going to come back with something similar to a pro forma which would also try to them an idea of what the operating costs would be and comparing this to construction cost. Mr. Walsh responded that their intention is to come back, at the end of this calendar year or the beginning of next calendar year, with various floor plans that would be at a schematic design level. He indicated that they did a business plan with a pro forma in 2011 which they will update with some permutations based on the schematic designs that

they bring back to Council. They will also come back with what the capital cost estimates are and operating expenses and the revenues that the facility might generate for the schematic designs. Mr. Walsh stated that the intentions are to bring back information so the Council can make an informed decision and give staff instructions on which schematic design they like best and that would work best for the community.

Councilor Herschlag inquired whether staff is looking at any energy systems such as heat pumps and solar panels for this facility. Mr. Walsh responded that, in the RFP when they hired the design team, they talked about trying to use those types of technologies to get an efficient building; they even talked about perhaps designing the facility to a LEED standard but not going for LEED certification because of the cost implications of doing so. He added that they will look at items such as this as they go forward with schematic design and final design.

Councilor Todd indicated that he is concerned with ongoing operating costs and encouraged staff to come back to Council with any potential design alternatives that would maximize operating revenue on an ongoing basis; even if it was something that wasn't originally part of the plan, he would prefer to actually see this as a potential option that they can discuss and decide upon.

Councilor Bouchard stated that she is in favor of moving forward and based upon the public meetings, it has been clear that the community is behind a facility such as this and she believes that there will be groups out there willing to pay rent in this facility. She feels that it's a worthwhile project for the city to move forward on.

Councilor Bouchard moved acceptance of the report and to include potential changes that have been suggested by the public. The motion was duly seconded.

Mayor Bouley indicated that staff has heard from Councilors in terms of looking at all the aspects in terms of demo and making sure they can preserve what they can or looking at new.

Councilor Herschlag inquired whether Council will be able to see what it would look like keeping part of the existing building and with complete demolition or whether they will be getting back a report that shows the pro forma or costs based on all new construction. Mr. Walsh responded that staff will give Council floor plans and may give a very generic building elevation drawing. He noted that they will also provide information about the capital cost, operating cost, potential revenues associated with each of those permutations they bring Council as well as a revised business pro forma for the facility and permutations of that as necessary for the options brought back.

The motion was approved with no dissenting votes.

New Business

Unfinished Business

26. 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)(1-42) (2-56) (3-45) (4-18) (5-45) (6-42) (7-38) (*Action on this item tabled following a February 2013 public hearing*)

Action: This item remains on the table.

27. 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) (1-43) (2-57) (3-46) (4-49) (5-46) (6-43) (7-39) (*Action on this item was tabled after a public hearing was held on September 9, 2013.*)

Action: This item remains on the table.

28. 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. (1-9) (2-45A; 2-46) (3-47) (4-50) (5-47) (6-44) (7-40) (*Action tabled on this item; item also referred to the Impact Fee Committee after a public hearing was held February 10, 2014*)

Action: This item remains on the table.

29. Ordinance amending the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance, Article 28-6, Sign Regulations, Section 28-6-7, Signs Prohibited Under this Ordinance and Glossary; together with a report from the Zoning Administrator. (2-16) (3-35E; 3-39) (4-51)(5-48) (6-45) (7-41) (*March 10, 2014 public hearing opened and recessed at the request of the Deputy City Manager – Development until such time as the Planning Board has had to finalize their review*) (*Report from the Deputy City Manager – Development; together with proposed ordinance submitted in July 2014*).

Action: This item remains on the table.

Comments, Requests by Mayor, City Councilors

Councilor Todd indicated that there is a mosaic community art project and public art initiative going on in regards to Concord's 250th. He presented a photo of the first completed one of four murals that are being created to celebrate the city's 250th anniversary in 2015; these are being given as a gift to the city. He noted that there will be four panels with symbolic imagery of Concord; the Concord Coach has been completed with the next one being a nature scene with rivers. Members of the community are invited to participate in placing the tiles in the mosaic

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which makes it a community owned piece of artwork. He listed off four events left to participate in: August 16th at the Concord Arts Market, August 17th at the Porkfest Fundraiser at Merrill Park, September 2nd at the Concord Arts Market and September 13th at the Multicultural Festival.

Councilor Todd indicated that he will be the entertainment at the Penacook Village Farmers Market on August 18th from 4:00 p.m. to 6:30 p.m. He will be there with a Victrola to discuss the history of music from 1900 to 1950. He highlighted that other entertainment will be performing on August 25th, September 8th and September 15th.

Councilor Herschlag stated that he and the Mayor recently attended the 20th anniversary of the 107 Fisherville Estates. He noted that the city was presented a certificate of appreciation and read the certificate publicly.

Councilor Herschlag indicated that he received a letter from Commissioner Wrenn from the Department of Corrections in regards to the construction of the women's prison in Concord. He noted that it's his understanding that Council has never taken a position on this and that it's his further understanding that the Planning Board has some outstanding concerns regarding this project. In lieu of this, he asked if it's Council will that they could direct a letter to the Commissioner stating that the Council has taken no position and that the Planning Board still has some ongoing concerns.

Councilor Bouchard stated that the prison is already approved and moving forward. She indicated that sending a letter indicating that there are concerns is a good idea but there isn't a way to stop it now if that is the intent.

Councilor Herschlag stated that the purpose is not in stopping the project but to correct the record. He was surprised that the letter stated that he has a particular interest in the project but stated that he has never publicly commented about the prison. His thought on this matter is to correct the record.

Mayor Bouley clarified that the letter is an invitation to the groundbreaking ceremony for the prison; it contains very generic language and went out to various individuals. He pointed out that it's on state property and that they don't have to comply with the city's planning process like any other developer would; they don't have to go to the Planning Board but they are and want to encourage them to do so. Hopefully the Planning Board makes suggestions that the state may want to incorporate within their project. He stated that he wants the state to be as accommodating and as open as they can be with the process to protect the city's interest. The Mayor encouraged Councilor Herschlag to send a letter on his own but doesn't personally believe it's necessary.

Councilor Herschlag clarified that he doesn't take issue with the invitation itself but does take issue with the wording in which it states that he has expressed interest and supports this project. He understands the Mayor's position and will take it under advisement.

Councilor Champlin indicated that residents in Ward Four have scheduled a neighborhood watch meeting with the Police Department on Wednesday, August 20th at 7:00 p.m. at the Green Street Community Center. He encouraged Ward Four and residents within the city to attend.

Councilor Champlin reminded everyone of the upcoming 9th Annual Concord Multicultural Festival being held on Saturday, September 13th from 1:30 p.m. to 6:00 p.m. on the State House lawn.

Mayor Bouley announced that the upcoming Primary Election is being held on Tuesday, September 9th and that absentee ballots are currently available.

Mayor Bouley reminded everyone of the Weekend on the Water event to be held on Saturday, September 6th.

Comments, Requests by the City Manager

Consideration of items pulled from the consent agenda for discussion

Referral to Community Development, Engineering

9. Communication from residents of A Street in Concord asking that consideration be given to making A Street a public street. (*Pulled from consent by Councilor Matson*)

Action: Councilor Nyhan explained that Councilor Matson had met with the residents of A Street which raised concerns about, as taxpayers, paying the same rates as everyone else yet not receiving the same level of services because their street is unaccepted. He indicated that this becomes an issue as the city looks at the paving program moving forward. He noted that the residents petitioned in pursuing the process of becoming an accepted street which leads to a larger discussion about there being other unaccepted streets within the city. He stated that it is felt that there is an opportunity to ask staff, as this item goes forward, to think about the process of unaccepted streets in the city. When the report come back it will be an opportunity for Council to discuss the number of unaccepted streets, how long they've been there and whether they want to think differently on unaccepted streets moving forward. He noted that the bigger picture is to come up with a formula/process that they can communicate with the public as to what needs to happen to make an unaccepted street an officially accepted street. He pointed out that his statements were made on behalf of Councilor Matson in her absence.

Councilor Nyhan moved to refer the communication to Community Development.

Councilor Keach asked how a street becomes unaccepted. Mr. Aspell explained that all streets, when they are constructed, come before the legislative body to see whether or not they are accepted by the city. He noted that typically every four or five years, a different street comes forward that Council made a decision on years ago. He explained that there is a specified process of how this works and what it comes down to is whose responsible for putting the street in such a condition that the community is willing to accept that street. Many times those costs could be in the high six or seven figures for acceptance.

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Councilor Keach asked if someone wanted to build a street today would that person/entity be required to bear the cost. Mr. Aspell explained that a developer would build the street through Planning Board specifications; it eventually, when complete, works its way to the Council and upon acceptance would receive all the services.

Councilor Coen inquired whether residents on an unaccepted street are still provided services such as snow plowing. Mr. Aspell responded that it depends upon the classification of the street.

Mayor Bouley noted that this discussion has been around for a long time explaining that several years ago, Council had Administration put together a whole process by which a road can be accepted. He indicated that Community Development could get back to Council with a report outlining the process so that everyone can see.

Councilor Nyhan's motion to refer was duly seconded and passed with no dissenting votes.

Adjournment

The time being 7:52 p.m., Councilor Champlin moved to enter into non-public session in accordance with RSA 91-A: 3, II (d) to discuss property acquisition and non-public session in accordance with RSA 91-A: 3, II (d) to discuss contract negotiations. The motion was duly seconded and passed with no dissenting votes.

A true copy; I attest:

*Michelle Mulholland
Deputy City Clerk*