



*Non-public session in accordance with RSA 91-A: 2, I (b)  
to discuss collective bargaining strategies to be held at 6:30 p.m.*

City Council Meeting  
**Minutes**  
**March 12, 2012**  
City Council Chambers  
7:00 p.m.

1. The Mayor called the meeting to order at 7:00 p.m.
2. Invocation by Pastor Joseph Bolduc from Trinity Baptist Church.
3. Pledge of Allegiance.
4. Roll Call. Councilors Bennett, Bouchard, Mayor Bouley, Councilors Coen, Grady, Keach, Kretovic, McClure, Nyhan, Patten, St. Hilaire, Shurtleff and Werner were present. Councilor Blanchard was late. Councilor DelloIacono was excused.
5. Executive Director Doris Ballard of Concord TV provided an overview of their April 15<sup>th</sup> live telecast of *Concord On Air*.
6. Approval of the February 13, 2012 meeting minutes.

**Action:** Councilor Grady moved approval of the February 13, 2012 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

7. Agenda overview by the Mayor.

**- Consent Agenda Items -**

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

**Items Tabled for an April 9, 2012 Public Hearing**

8. 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. (***Public hearings to be held in April and May***)
9. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 15, Licensing and Regulation of Businesses, Trades and Occupations, Article 15-10-2 Definitions; together with report from the Deputy City Solicitor.

10. Resolution appropriating the sum of \$50,000 for the purpose of conducting a runway safety area (RSA) determination study as part of the design of the "A" parallel taxiway for runway "12/30" at the Concord Municipal Airport, including \$47,500 in grant funds from the Federal Aviation Administration (FAA), and \$1,250 in grant funds from the State of New Hampshire Division of Aeronautics, and \$1,250 in Capital Transfer Funds from the City of Concord Airport Special Revenue Fund; together with a report from the Associate Engineer.
11. Resolution eliminating the Information Technology Advisory Committee (ITAC) and rescinding resolution #7276, adopted on January 23, 2002; and resolution #7549, adopted on December 8, 2003; together with report from Mayor Bouley.
12. Resolution amending the Code of Ordinances, Title V, Administrative Code; Chapter 30, Boards and Commissions; Article 30-3; Section 30-3-18, Golf Course Advisory Committee; together with report from the City Manager.
13. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, by amending Schedule I and Schedule II of Article 1-5, Fees, Fines and Penalties; together with report from the Deputy City Manager – Finance.
14. Non-ordinance fees.
15. Resolution accepting and appropriating the sum of \$16,893 from the NH Charitable Foundation for Management and Maintenance of municipal property; together with a report from the Assistant for Special Projects.
16. Resolution authorizing the City Manager to enter into an agreement with the Concord Union School District concerning acquisition of Dame School located at 14 Canterbury Road, Concord; together with a report from the Assistant for Special Projects.
17. Ordinance amending the Code of Ordinances, Personnel Class Specification Index, Controller/Assistant Finance Director; together with report from the Director of Human Resources and Labor Relations.

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

18. Positive Citizen Comments.
19. Council meeting date calendar.

#### **Consent Reports**

20. Appropriation Transfer Report: February 2012.
21. Diminimus gifts and donations report from the Parks and Recreation Director requesting authorization to accept monetary gifts totaling \$2,869 as provided for under preauthorization granted by City Council.

22. Diminimus gifts and donations report from the City Engineer requesting authorization to accept funds totaling \$9,975.85 for East Side Drive/Loudon Road utility connections, as provided for under preauthorization granted by City Council.
23. Diminimus gifts and donations report from the Police Department requesting authorization to accept funds totaling \$3,450 as provided for under preauthorization granted by City Council.
24. Weston Solutions “Make a Difference Day” report from the Parks and Recreation Director on upcoming projects at Terrill Park and the West Street Ward House.
25. Report from the City Engineer on the status of capital projects managed by the Engineering Services Division.
26. Response from the Conservation Commission in response to a communication from James Taber requesting information regarding who has access to the gate on West Locke Road in Concord as well as asking that both gates be removed allowing all citizens access. (11-12)
27. Report from the Transportation Policy Advisory Committee in response to a communication from Jim Baer requesting the City of Concord consider publishing a pamphlet to clearly outline bicycle safety laws, rules and regulations. (12-8)
28. Report from the City Solicitor in response to a communication from TFM Civil Engineers, on behalf of their client Holly Carlson, asking that City Council reconsider an amendment to an electronic changeable sign ordinance for the City of Concord. (2-9)
29. Reports from the General Services Director and the City Solicitor in response to communications from Bonnie Larochelle and third graders from the Kimball School expressing their concerns about sidewalk conditions in the winter as well as suggesting the City implement a policy mandating citizens keep the sidewalks in front of their properties clear of snow during winter months. (2-11)
30. Report from the Director of Real Estate Assessments recommending no amendments be made to the blind and elderly exemptions and veterans credits for the 2012 tax year.

### **Consent Resolutions**

31. Authorizing the City Manager to submit an application for up to \$50,000 to the Federal Aviation Administration (FAA) and the New Hampshire Department of Transportation (NHDOT), Division of Aeronautics Grant Funds for the purpose of conducting a runway safety area (RSA) determination study as part of the design of the A Parallel Taxiway for Runway 12/30 at the Concord Municipal Airport; together with a report from the Associate Engineer.

### **Consent Communications**

32. Street closure request from the Concord Cooperative Market for their annual Spring into Healthy Living Fair to be held on Saturday, May 12, 2012.

33. Street closure request for the 2012 Making Strides Against Breast Cancer event to take place on Sunday, October 14, 2012.

**Appointments**

34. Mayor's proposed appointment to the Recreation and Parks Advisory committee.  
*Jason C. Brooks*

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

**35. February 12, 2012 – Recessed Public Hearings**

- A. Resolution determining the proposed project has a Public Benefit and approving an application by the Concord Area Trust for Community Housing (CATCH) for Community Revitalization Tax Relief Incentive - RSA 79-E, for rehabilitation of a commercial condominium at 1-5 South Main Street; together with report from the Deputy City Manager – Development. (1-20) (2-41E; 2-47) (*Public testimony received*) (***Public hearing recessed at the February 12, 2012 Council meeting***)

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

Carlos Baia, Deputy City Manager-Development, explained that last month the hearing was recessed in light of the fire that happened the day prior. He indicated that CATCH has done some more investigation and haven't determined that the scope will be changed because of the fire and feels comfortable in proceeding this evening.

Mayor Bouley opened the public hearings for items A and B.

**Public Testimony**

Mike Reed, Director of Real Estate for CATCH, stated that he reiterates what Mr. Baia had spoken.

Councilor Keach asked whether the fire impacted the numbers, financially, in a significant way or whether they were on track. Mr. Reed responded that they did not know yet.

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

- B. Resolution determining the proposed project has a Public Benefit and approving an application by the Concord Area Trust for Community Housing (CATCH) for Community Revitalization Tax Relief Incentive - RSA 79-E, for substantial rehabilitation of a residential apartment building at 3 South Main Street; together with report from the Deputy City Manager – Development. (1-21) (2-41-F; 2-48) (***Public hearing recessed at the February 12, 2012 Council meeting***)

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

36. **March 12, 2012 Public Hearings**

- A. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 17, Vehicles and Traffic; Article 17-4, Operation of Motor Vehicles; Section 17-4-1, Stop Required Before Entering a Through Street; Section 17-4-1(a); Schedule V, Stop Intersections; School Street at N. Fruit Street; together with report from the Traffic Operations Committee in response to a communication from Alex de Nesnera, 2 Fogg Street, requesting City Council consider the removal of two stop signs on School Street, at the intersection of North Fruit and School Streets. (3-12) (2-17) (*Public testimony from Caitlin and Andrew Eills; and Alexander de Nesnera received*)

**Action:** City Manager Tom Aspell provided a brief overview.

Referencing the report, Councilor Coen indicated that he did not see a section in regards to pedestrian traffic. Traffic Engineer Rob Mack responded that the traffic counts were conducted with automatic equipment which picks up vehicles and not pedestrians. He noted that the numbers that were used were vehicle numbers adding that he did go out during the school peak hours and took observations. He indicated that there were a handful of pedestrian crossers at this location.

Councilor Nyhan questioned, other than the request to consider removing the four-way stop signs, how many other complaints or other requests were received relative to that intersection. Mr. Mack replied that the Traffic Operations Committee received two requests to remove it. Councilor Nyhan questioned what the timeframe was that these requests were received. Mr. Mack responded that they were received since late 2010. Councilor Nyhan inquired as to when the four-way stop was implemented. Mr. Mack indicated that it was in 2008.

Focusing on the report, Councilor Werner noted that it indicated that in the four years since the stop signs have been in place there have been zero accidents. He pointed out that the history prior to this was one and a half accidents per year. Mr. Mack agreed indicating that this number was for the four preceding years, 2004 to 2008. Councilor Werner stated that he understands the application of warrants, in terms of traffic conditions, whether stop signs should be there or not but questioned whether there are other considerations that could or should be taken into account in terms of a marginal increase in public safety. Mr. Mack explained that the Federal Highway Administration's warrants for considering stop signs sets a level of five crashes per year at a location, rising to the level in which safety would be a consideration and should be looked at. He explained that the level at this location was at one and a half per year so accidents alone wouldn't have been a consideration. He indicated that the other considerations would be the volume of traffic, the location, sight lines, and volumes of pedestrians.

Councilor Keach asked for clarification as to whether that intersection did not meet the threshold of the standard back in 2008. Mr. Mack indicated that to be correct explaining that the study was done back in 2006. Referring to the current year, Councilor Keach asked whether the intersection has even less traffic and the issue is even more diminished. Mr. Mack responded that to be correct.

Councilor Bennett inquired as to how many people originally petitioned the city to put the stop signs in. City Engineer Ed Roberge responded that he believed that there was only one family.

Councilor Bouchard pointed out that in having the stop signs at this location it appears that there are one and a half accidents less per year and school bus drivers feel that it's safer for them to have the stop signs there. Mr. Roberge responded that the school bus drivers had indicated that the stop signs have been helpful to them. Councilor Bouchard indicated that it appears that it has made some small difference in making that intersection a little safer.

Councilor Shurtleff clarified that it was one family that requested the stop sign because they had a daughter who had a vision impairment that used that intersection to travel to Concord High. He stated that he believes the daughter has graduated but still goes back to the high school as a peer counselor. He asked if it would make a difference if someone with a vision impairment is still using this intersection. Mr. Roberge stated that staff testified in 2008 that, while the vision impaired student could benefit from it, their concern at the time was that there was really no guarantee that it made the intersection any safer by installing the stop signs; staff raised concerns that it may not be safer for vehicles. He added that over the last few years they have monitored this location and it can be inferred that it is a safer condition but there is nothing to suggest an intersection is safer to a pedestrian if it has four stop signs versus two stop signs.

Councilor Kretovic questioned whether staff saw any traffic diverting to any other areas in the neighborhood. Mr. Mack responded that there were no studies or traffic counts done on that. He added that this happened in March and Langley Parkway, which opened in June or July, made a dramatic change starting with this. Councilor Kretovic asked if opening up Langley Parkway South could have a greater impact on the reduction of accidents than the addition of a stop sign. Mr. Mack replied that did have a significant effect.

Councilor Coen noted that he believes that there were two neighborhood meetings concerning cut through traffic on School Street south and there was quite a concern during this time but once the four-way stop signs were in place and Langley Parkway was opened there seemed to have been a greater reduction in cut through traffic. Referencing the report, he indicated that there is no conclusion if that four-way stop sign had an impact or it didn't. Mr. Mack responded that Langley Parkway took traffic away from Pleasant Street and it changed the direction split at the traffic light by the high school; it allowed the change of the lane use and reduced delays substantially at the traffic light. He indicated that the primary reason why people were pushing through the neighborhood was to bypass the long traffic delays at the light.

Mayor Bouley opened the public hearing.

### **Public Testimony**

Corey Sides, Concord resident, indicated that he and his family are frequent walkers around that neighborhood and have taken advantage of the safety of being able to walk without significant fear of high speed traffic at the School and North Fruit Street intersection.

Referencing the studies done within the report, in his opinion the stop signs have already proven its worth. He stated that the goal should be no accidents rather than no less than five. He pointed out that the analysis reveals an average delay of seven seconds per vehicle between the two-way stop and the four-way stop; he argued that public safety is more important than a few seconds of convenience. He asked that Council to act responsibly on this matter and keep the four-way stop sign as is.

Jeff Belanger, Dwinell Drive, spoke in opposition of removing the stop sign noting that he feels that pedestrian safety is important and should be taken into consideration. He noted that he does see cut through traffic on a daily basis and although it may have been cut down with the opening of Langley Parkway, he is confident in saying that if the stop signs are taken away, it would encourage more cut through traffic in this area.

Brooke Belanger, Dwinell Drive, added that section of School Street is the longest section without a stop sign so if that was removed, there would be no stop sign between Westbourne and Kensington and that is where vehicles get up the speed. She voiced her concerns with pedestrian safety. She distributed a letter to Council from a neighbor in opposition to be submitted for the public record.

Jeff Belanger urged that the city take into consideration option E within the report, the need to control vehicle-pedestrian conflicts near locations of high pedestrian volumes.

Glenn Berger, Concord resident, noted his concerns with pedestrian safety and the speed of vehicles within this intersection. He urged Council to err on the side of caution.

Eleanor Shellman spoke in opposition of the stop sign removal explaining that a four-way stop at that intersection for a blind person is absolutely necessary. She noted that Council should take into consideration that municipalities are required to make reasonable accommodations for people with disabilities and she feels that keeping the stop signs is a reasonable accommodation for a person with a disability in this neighborhood.

Councilor Keach inquired whether she sees this as a City Council obligation or an obligation to the ADA federal statute. Ms. Shellman replied that she was not sure but hopes that Council would accommodate that and keep the stop signs there because it's benefiting everyone but it's vital for a blind person.

Jack Donovan, Spaulding Street, indicated that he has found the installation of the stop signs to be a real improvement. He asked that it be left in place until such time the northern part of Langley Parkway is put in.

Dr. Fuller stated that he feels that the stop signs are valuable to the community and to his daughter. He urged that Council keep it there for the community.

Cindy Edgecomb, Thayer Pond Road, spoke in opposition of the removal of the stop signs asking if the benefits outweigh the risks.

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

- B. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 15, Licensing and Regulation of Businesses, Trades and Occupations, Article 15-2 Pawnbrokers; together with report from the Deputy City Solicitor in response to a communication from Richard Guignard, Coins & Treasures, 25 South Street, noting his disapproval of the license fee approved within Ordinance No. 2806 regarding pawnbrokers/second hand dealers. (3-13) (2-12)

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

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

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

- C. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, by amending Article 1-5, Fees, Fines, and Penalties, Schedule I; together with report from the Police Department in response to a communication from Richard Guignard, Coins & Treasures, 25 South Street, noting his disapproval of the license fee approved within Ordinance No. 2806 regarding pawnbrokers/second hand dealers. (3-13) (2-13)

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

- D. Resolution to appropriate the sum of \$200,000 and authorize the issuance of bonds and notes for construction engineering services for phase one of liquid stream odor control improvements at the Hall Street Wastewater Treatment Plant, CIP #89; together with report from General Services. (2-14) (*Request to postpone/table until such time as staff brings back*)

**Action:** City Manager Tom Aspell indicated that staff has not finalized the work on this and asked that Council open the public hearing and recess the hearing until staff receives more information on the final bid numbers.

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

- E. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance, Article 28-4, Development Design Standards; together with report from Code Enforcement. (2-15)

**Action:** City Manager Tom Aspell provided a brief overview.

Mayor Bouley opened the public hearing. There being no public testimony, the Mayor closed the public 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; Section 18-1-8 Parking Time Limited in Designated Spaces, Schedule III; and Section 18-3-4, Location of Parking Meters, Schedule X; Storrs Street; together with a report from the Traffic Engineer. (2-16)

**Action:** City Manager Tom Aspell provided a brief overview.

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

- G. Resolution to appropriate the sum of \$30,000 for the purchase and installation of seven self-operable lifts to be located at each of the community's seven swimming pools; together with report from General Services. (2-18)

**Action:** City Manager Tom Aspell provided a brief overview.

Councilor Keach asked whether there was any opportunity to have one lift between pools to accommodate that regulation. Mr. Aspell responded that that would not meet regulations.

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

There being no Council objection, item 42 was taken out of order as the first item to be voted upon in the action phase. See item 42 for action taken.

### **February 12, 2012 – Public Hearing Action**

37. Resolution to appropriate the sum of \$1,480,000 and authorize the issuance of bonds and notes for design and construction of a new municipal office building at 10 Prince Street; together with report from the Assistant for Special Projects. (1-19) (2-41D: 2-46) *(Public testimony from Carol Bagan received, not previously distributed)(Public hearing action tabled at the February 13, 2012 Council meeting) (Supplemental report from the Assistant for Special Projects concerning proposed office building at 10 Prince Street and alternative properties to meet City's needs submitted)(Additional maps submitted)*

**Action:** Councilor Coen moved approval. The motion was duly seconded.

Matt Walsh, Assistant for Special Projects, provided an overview of his report.

Councilor Bouchard asked whether the configuration would hold both the city welfare and the prosecutor's office. Referencing the diagram, Mr. Walsh explained that on the left hand side, the dark blue indicates the space to be occupied by the welfare office on the first floor; the middle image, the green, is the area to be occupied by the prosecutor's office; the goldenrod is the space to be occupied by the IT department. Councilor Bouchard inquired as to how many parking spaces would be at this building. Mr. Walsh responded that there would be no new parking spaces built so they would have to rely on the existing supply on campus.

Councilor St. Hilaire noted that he did want to hear the information regarding the Green Street Community Center. Mr. Walsh explained that in the past there has been conversation about renovating the Green Street Community Center from a recreational facility to an office space for City Hall. He anticipated that if this were to happen the building could be renovated into approximately 24,000 square feet of space. He added that the quick estimate to accomplish this would be somewhere between \$6.5 million to \$6.75 million.

Councilor McClure noted that as she understands, in regards to the library situation, both studies recommended that one of the problems with the current library and any new library was to have additional parking spaces. Mr. Walsh replied that was a fair statement explaining that the 1995 study and 2007 study both talked about a lack of parking for the library and the need to find more. He stated that he believes that one of the key reasons why it was recommended to try and move the facility downtown was to be near parking garages and other facilities to try to accomplish this. Councilor McClure noted that when a design of a mock-up of what a library would look like if the existing library was renovated, she believes that there was no room for additional parking. Mr. Walsh replied yes explaining that if the city was going to ever expand parking supply for the library, assuming that it stays where it currently is and is ever expanded in the future, additional private property would need to be acquired in order to meet some of those parking goals. Referencing a picture on the bottom of one of the diagrams, Councilor McClure questioned whether this was where 10 Prince Street is currently and whether it's a rendering of what would happen if they demolish 10 Prince Street and put in parking or whether it was just the lot behind the library that exists currently. Mr. Walsh explained that the rendering is the existing 15 space parking lot that is behind the library; the brown outline is the library; the red-dash line is the property line between the library parking lot and 10 Prince Street. He indicated that if Council wanted to pursue this, they have the opportunity to rework how this parking lot is laid out, basically to expand from approximately 15 spaces now to somewhere around 25 or 27. In regards to the existing spaces, Councilor McClure indicated that there are currently ten hour meters and given that the proposal is to move two more departments into this area is staff considering making those ten hour meters less than ten hours so that they are available to people that come to those departments. City Manager Tom Aspell responded that they would have to revisit all the parking behind City Hall and the library and believes that they would want to make those spaces more accessible to all the buildings within that area. He indicated that he doesn't really see the need necessarily, if doing something on the site, to have ten hour spaces there anymore.

Councilor St. Hilaire asked whether the Merrimack County Savings Bank parking lot is the next lot over on Prince Street. Mr. Walsh indicated that to be correct.

Councilor Coen noted his appreciation of the matrix, contained within the report, in looking at the three options. He stated that he feels that it makes sense to go with option A, 10 Prince Street, and to build the office space.

Councilor Nyhan asked what the feedback has been from the Prosecutor's office about locating at this site. Mr. Walsh responded that they feel comfortable with this space and that it will be able to serve their needs. He indicated that it will be larger than what they have now which is important for their filing storage space.

The motion to approve passed on a 2/3<sup>rd</sup> roll call vote with Councilors Bennett, Bouchard, Mayor Bouley, Councilors Coen, Keach, Kretovic, Nyhan, Patten and Werner voting yes. Councilors McClure, St. Hilaire and Shurtleff voted no. **(See \*\*\* on page 13 in regards to clarification of actual action taken concerning the 2/3<sup>rds</sup> vote and additional discussion)**

38. Resolution to amend and restate the Development Program and Financing Plan for the North End Opportunity Corridor Tax Increment Finance (NEOCTIF) District. (1Sus3) (2-41J: 2-52) ***(Public hearing held on February 13, 2012 per RSA 162-K:4 action to be taken on March 12, 2012)***

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

39. Resolution to appropriate the sum of \$230,000 from the North End Opportunity Corridor Tax Increment Finance District for the purpose of acquiring real estate located at #9 South Commercial Street and related costs associated therewith. (1Sus4) (2-41K: 2-53) ***Public hearing held on February 13, 2012 per RSA 162-K:4 action to be taken on March 12, 2012)***

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

### **March 12, 2012 Public Hearing Action**

40. Resolution determining the proposed project has a Public Benefit and approving an application by the Concord Area Trust for Community Housing (CATCH) for Community Revitalization Tax Relief Incentive - RSA 79-E, for rehabilitation of a commercial condominium at 1-5 South Main Street; together with report from the Deputy City Manager – Development. (1-20) (2-41E; 2-47)(*Public testimony received*)

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

41. Resolution determining the proposed project has a Public Benefit and approving an application by the Concord Area Trust for Community Housing (CATCH) for Community Revitalization Tax Relief Incentive - RSA 79-E, for substantial rehabilitation of a residential apartment building at 3 South Main Street; together with report from the Deputy City Manager – Development. (1-21) (2-41-F; 2-48)

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

42. Ordinance amending the Code of Ordinances; Title II, Traffic Code; Chapter 17, Vehicles and Traffic; Article 17-4, Operation of Motor Vehicles; Section 17-4-1, Stop Required Before Entering a Through Street; Section 17-4-1(a); Schedule V, Stop Intersections; School Street at N. Fruit Street; together with report from the Traffic Operations Committee in response to a communication from Alex de Nesnera, 2 Fogg Street, requesting City Council consider the

removal of two stop signs on School Street, at the intersection of North Fruit and School Streets. (3-12) (2-17) (*Public testimony from Caitlin and Andrew Eills; and Alexander de Nesnera received*)

**Action:** Councilor Bouchard moved to not accept the Traffic Operations Committee report and to keep the stop sign. The motion was duly seconded.

Councilor Werner stated that data is important and can inform but it's not infallible. He noted that he feels that the human element has to, at times, be taken into consideration. He supported Councilor Bouchard's motion.

Councilor Bouchard indicated that from the testimony by the neighborhood, it appears that the stop sign has been a benefit to the family and the neighborhoods within that area.

Councilor St. Hilaire voiced his support of Councilor Bouchard's motion.

Councilor Coen noted that this area is a neighborhood pedestrian area and feels strongly that the four-way stop sign should be retained.

Councilor Bouchard's motion to not accept the report and to keep the stop sign passed on a voice vote.

43. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 15, Licensing and Regulation of Businesses, Trades and Occupations, Article 15-2 Pawnbrokers; together with report from the Deputy City Solicitor in response to a communication from Richard Guignard, Coins & Treasures, 25 South Street, noting his disapproval of the license fee approved within Ordinance No. 2806 regarding pawnbrokers/second hand dealers. (3-13) (2-12)

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

44. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, by amending Article 1-5, Fees, Fines, and Penalties, Schedule I; together with report from the Police Department in response to a communication from Richard Guignard, Coins & Treasures, 25 South Street, noting his disapproval of the license fee approved within Ordinance No. 2806 regarding pawnbrokers/second hand dealers. (3-13) (2-13)

**Action:** Councilor St. Hilaire moved approval. The motion was duly seconded.

Mayor Bouley thanked the Police Department, the Legal Department and Code Administration for working on these items. He stated that the pawnbrokers ordinance has led to over eighty cases being solved.

The motion to approve passed with no dissenting votes.

45. Resolution to appropriate the sum of \$200,000 and authorize the issuance of bonds and notes for construction engineering services for phase one of liquid stream odor control improvements at the Hall Street Wastewater Treatment Plant, CIP #89; together with report from General

Services. (2-14) (*Motion to either recess, table or move to take no action on request with the understanding staff will bring forward at a later time*)

**Action:** No action taken. Public hearing was recessed.

46. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance, Article 28-4, Development Design Standards; together with report from Code Enforcement. (2-15)

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

47. 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; Section 18-1-8 Parking Time Limited in Designated Spaces, Schedule III; and Section 18-3-4, Location of Parking Meters, Schedule X; Storrs Street; together with a report from the Traffic Engineer. (2-16)

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

48. Resolution to appropriate the sum of \$30,000 for the purchase and installation of seven self-operable lifts to be located at each of the community's seven swimming pools; together with report from General Services. (2-18)

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

**\*\*\*Referencing item 37**, City Solicitor Jim Kennedy indicated that looking at the appropriation of the funds for 10 Prince Street and looking at section 37 of the charter, an appropriation after the budget is adopted, construing that language "no appropriation shall be made for any purpose not included in the annual budget as adopted unless by a 2/3<sup>rd</sup> majority of the Council. He stated that the 2/3<sup>rd</sup> is the majority of the Council.

Mayor Bouley indicated that what is before the Council is item 37 in which ten votes were needed for it to be adopted and it only received nine votes so the motion has failed. He asked the Council if they would be willing to have a discussion and re-open item 37 given what was heard by the City Solicitor.

Councilor Keach made the motion to discuss item 37. The motion was duly seconded and passed with no dissenting votes.

Mayor Bouley explained that reconsideration of the vote motioned by someone on the prevailing side could be done and if it is chosen not to do this, it is his request of Council to give Administration some direction as to how they would like them to proceed.

Councilor Blanchard asked whether she will be able to vote on this item if she was absent for the first vote. Mayor Bouley explained that if a member of the prevailing side was to ask for reconsideration and it was to be adopted, she would then be able to vote.

Councilor St. Hilaire noted that he voted against it because he still feels a little uneasy about rushing into it indicating that he has questions about the library in the future and how that property will affect that and also has questions about parking. He stated that if some of his concerns were alleviated then he would feel comfortable voting for it.

Councilor McClure indicated that she has similar reservations and feels a bit rushed in moving forward on a \$1.4 million project. She noted that she would like to see further studies in terms of how the vision for this whole campus looks in the future and what some of the other options are in the immediate area. She stated that she may change her mind with a little more information but she is not ready to move forward at this point.

Councilor St. Hilaire noted that the last time this was tabled he had suggested that they look at the long term strategies and plans.

Councilor Nyhan explained that part of the reason that he voted for the motion is because they have needs for the Human Services Department and the Prosecutor's Office and felt somewhat compelled that there is an urgency to take a vote. He asked for a timeline and when a decision is needed to house those offices. Mr. Walsh, Assistant for Special Projects, explained that the Human Services Department's lease was originally set to expire in October 2012 and staff had worked with the State of NH to extend that to February 1, 2013 based on what was thought that the timeframe would be. He indicated that it is his understanding that the court has asked the Prosecutor's Office to leave by the end of August 2012 but there is an informal feeling that this could be extended. He explained that the schedule really depends on which option the Council would like to go indicating that it takes longer to design, permit and build a building than it would to move forward with a lease space. Councilor Nyhan indicated that at some point those offices are going to have to leave those buildings and staff is working on their best estimate which he feels doesn't help Council as far as planning purposes. He asked, in the interest of making more informed decisions, if staff could bring back that information to Council to enable them to make a better decision.

Councilor Shurtleff indicated that his concern was the \$1.5 million price tag and that he is also concerned that it would eliminate any possibility of any future expansion of the library. He questioned, for reasons of security, if it would be better to move Code Administration to a new building and move either Human Services or the Prosecutor's Office closer to the police station.

Councilor Blanchard stated that she didn't expect this to come off the table so soon because she thought there were other possible options for Human Services. She indicated that she is not in favor of this at this time and feels that they are in too much of a hurry to spend that type of money.

Mayor Bouley summarized all the issues that Council has just brought up. He suggested that staff come back to Council. He stated that he feels that this is serious enough that they have to act quickly and if staff can pull together the information sooner he would be more than willing

to have a special meeting to talk about this. He noted that these questions need to be answered before a vote is taken. He encouraged any Councilor that has any questions to get in touch with either the City Manager or Mr. Walsh so that they have all the questions prior to a meeting.

In regards to one of Councilor McClure's concerns, City Manager Tom Aspell noted that he hadn't planned on going out and looking around at other spaces to acquire explaining that he doesn't have the resources or the time to do so. In response, Councilor McClure noted that it was unfair to suggest that, in the future, there are other properties that may be available. She stated to the fact that they are closing out an option by building at 10 Prince Street.

Mr. Aspell noted he didn't believe Council would be interested in deciding how the parking is laid out for the individual departments and offices and asked whether this is wanted by the Council. Councilor St. Hilaire responded that he didn't want to get to that level but wants to know that there is an option.

Councilor Shurtleff added that his concern with parking is that the prosecutors will be driving back and forth to the court and that they have space for themselves.

Councilor McClure commented that there were some references within the report to the incompatibility of those who utilize Human Services noting that she objects to this characterization of the people who use this department and that this shouldn't be a factor in where they choose to move; they should be a little more flexible in considering places for the Human Services Department. Mr. Aspell responded that wasn't the staff piece, that is what they found when they went out to the public to look at spaces further stating that there are some people that do not want certain uses in certain areas.

Councilor Keach stated that there is a benefit to bringing Human Services downtown because people are within walking distance.

Councilor Nyhan noted that it would be fair for the Council to understand what the impact of not making this decision is; a summary of what the alternative arrangements are.

Referencing a table of twenty properties that were looked at, Mr. Walsh asked whether there is any additional information that they need for any of those. The response from Council was no.

Mr. Aspell asked what the process would be after staff brings the requested information back to the Council. Mayor Bouley explained that there will be a motion to either accept or reject.

## **Reports**

49. Annual setting of the tax rate; tax rate target recommendation from the Fiscal Policy Advisory Committee.

**Action:** Mr. Aspell provided an overview explaining that the unanimous decision was to recommend to Council that the City Manager be given the discretion to present the budget in keeping with the City and FPAC goals in lieu of a specific tax rate target.

Councilor Nyhan moved to accept the report. The motion was duly seconded.

Mayor Bouley explained that this was the first year in fifteen years in which a target was not offered noting that there are some unknowns this year that they have not had to deal with in the past: relocation of the Human Services office, relocation of the Prosecutor's office, the Dame School property.

The motion to approve the report passed with no dissenting votes.

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

Councilor Grady invited everyone to Concord's Cash Mob on March 24<sup>th</sup> at 2:00 p.m. which meets at 38 North Main Street. Everyone will have \$20 on hand to support local businesses.

Councilor Blanchard commended the Engineering and Planning Departments for running a successful charette in Penacook on Saturday morning.

Councilor Shurtleff announced that there will be a second charette on April 19<sup>th</sup> at 6:00 p.m. at the United Church of Penacook which will discuss development, parking and business prospects.

Councilor Kretovic indicated that she attended the annual meeting for Intown Concord. She recognized Kevin Curdie as a public member that attends the Public Transportation Policy Advisory Committee meetings and is the committee's "eyes on the buses" every day. On behalf of the committee, she thanked him for all his hard work and his dedication to CAT and the city.

Mayor Bouley added that Mr. Curdie is a role model for volunteering and giving back to the community. He thanked him on behalf of the Council.

### **Consideration of Suspense Items**

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

3 Sus1 Rules Committee discussion on the Council referral relative to the communication from the City Manager in regards to a communication received from the Police Department. (1Sus1) (*Draft censuring resolution of City of Concord Dick Patten submitted*)

**Action:** Councilor St. Hilaire explained that the Rules Committee had a public meeting on Thursday and at that time discussed what violation of the charter section would be violated and if there was a violation. The City Solicitor had done a lot of research and determined where their perimeters were and it was determined that if there was a violation it would be under section 15 and the options were to either remove the Councilor for cause or nothing, an all or nothing option. He indicated that the committee had a lengthy discussion and determined that the action in question didn't rise to the level of removal of a Councilor. He added that they did have a discussion in regards to the inappropriateness and in the end there was a recommendation, back to the full Council, that the Council not hold a public hearing and that as a Council, they accept the recommendation of the Rules Committee which is to issue a written reprimand of censure to Councilor Patten based on his actions.

Councilor Coen moved acceptance of the Rules Committee's recommendation.

Councilor Patten read the following statement into the record: " I apologize to Officer Lovejoy, the City Council, to the employees of the City and to my constituents for by bad judgment. I have been involved with this community since I was a child growing up on Concord's heights and the last thing I would ever want to do is hurt or threaten anyone. Officer Lovejoy is a competent professional law enforcement officer as is our entire police force; I know this because I have worked with them for over thirty years. I know it was by bad judgment that caused Officer Lovejoy, this City Council and the people of Concord to question my ethics, my morality and my commitment to the city. As President John Kennedy once said "An error doesn't become a mistake until you refuse to correct it." I look forward to working with you all to correct this. I assure everyone that nothing like this will ever happen again."

Councilor Grady noted that she feels that it's unfortunate that so many people are overly cynical about their elected officials and the political process but when things like this happen, she is not sure how they can blame them. She commended the members of the Police Department for stepping forward and doing the right thing under these difficult circumstances. She stated that they and all the city employees deserve better treatment. She further stated that she looks forward to moving beyond this incident and has faith that this body can work together to restore the public's trust.

Mayor Bouley began by saying that there have been several letters to the editor and a Facebook page entitled "Thank you Dick Patten", he made it clear that tonight's discussion has nothing to do as to whether or not Dick Patten is a nice guy or not. Tonight is far more important and may be the most important issue that he has dealt with since being honored with the privilege of being elected to this Council fifteen years ago. He indicated that he was presented with a report early this year regarding the interaction between Councilor Patten and a Concord police officer on behalf of Tyler Martel and, given the report and the evidence before him, he felt that he had no choice but to bring this to the attention of the full Council and the community. He fully expects that the public would expect him to do nothing less to bring any appearance of impropriety to light. Given the situation, he would take the same action today. Tonight, what he believes they are talking about is what he considers to be a violation of public trust. The Mayor indicated that he believes that as elected officials they have been entrusted with the responsibility to serve for the public good and must be held to the highest standard of ethical conduct, acting with integrity. He stated that Councilor Patten's actions, not to help a constituent but a close personal friend, has eroded that trust. He indicated that comments regarding the City Charter and his actions such as "I've got to read more on that stuff" and "I've got to remember that I'm a public official, sometimes I forget that", in his opinion is unacceptable and unbecoming of a City Councilor who has sworn to uphold the charter and it's ordinances. He stated that he wants the community to know that these actions are those of an individual Councilor and should not be reflected on this City Council. He strongly urged that the Council adopt the recommendation of the committee and hopes that they adopt a censure resolution reprimanding Councilor Patten.

Councilor St. Hilaire added that the Rules Committee also recommended that Councilor Patten copy the charter and copy the rules to make himself familiar with both of those documents.

Mayor Bouley indicated that there is a motion on the floor regarding the approval of the committee report. He noted that this can be adopted if Council wishes or they can take the comments by Councilor St. Hilaire to be an amendment to that motion, taking one vote.

Councilor Coen accepted Councilor St. Hilaire's comments as an amendment to his motion.

City Clerk Janice Bonenfant read the censure resolution of City of Concord Councilor Dick Patten:

***The City of Concord resolves as follows:***

***RESOLVED*** by the City Council of the City of Concord that:

***WHEREAS*** on December 13, 2011, Councilor Dick Patten left a voice message for Concord Police Officer Christian Lovejoy inquiring as to why Officer Lovejoy issued Tyler Martel a summons for a certain traffic violation and not a warning; and

***WHEREAS*** on December 13, 2011, Officer Lovejoy returned Councilor Patten's call and explained why he issued the traffic summons to Mr. Martel. Councilor Patten again inquired why Officer Lovejoy did not issue a warning for the traffic violation and asked if it was the City's policy to only issue tickets and not warnings. Officer Lovejoy explained that he had discretion to issue the summons or a warning based upon the circumstances and that the circumstances warranted a summons. Councilor Patten continued to question Officer Lovejoy about his decision and asked Officer Lovejoy how he would feel if he contacted his supervisor about this issue. Officer Lovejoy advised Councilor Patten that he certainly could speak with his supervisor; and

***WHEREAS*** on December 13, 2011, Officer Lovejoy notified his supervisor about his communication with Councilor Patten and was requested to prepare a memorandum outlining the above described events; and

***WHEREAS*** on January 9, 2012, City Manager, Thomas J. Aspell, Jr. forwarded a communication from the Concord Police Department regarding Councilor Patten's December 13, 2011 communication with Officer Lovejoy; and

***WHEREAS*** on January 9, 2012, the City Council referred the December 20, 2011 communication from the Concord Police Department regarding Councilor Patten's December 13, 2011 communication to Officer Lovejoy to the Rules Committee to address and make recommendations regarding whether Councilor Patten violated the City Charter in his December 13, 2011 communication with Officer Lovejoy; and

***WHEREAS*** on March 8, 2012, the Rules Committee held a meeting and reviewed the December 20, 2011 communication from the Concord Police Department relative to the Councilor Patten's December 13, 2011 communications with Officer Lovejoy. The Rules

Committee also reviewed Section 15 of the City Charter to determine whether “cause” existed to remove Councilor Patten from Office or if there was any other action appropriate to address the issue presented; and

**WHEREAS** on March 8, 2012, after review of the December 20, 2011 communication from the Concord Police Department and Section 15 of the City Charter, the Rules Committee recommended that the City Council find that the conduct referenced in the January 9, 2012 communication from the City Manager does not rise to the level of a for “cause” removal from Office, however, the Rules Committee recommended that the City Council adopt and issue a written censure of Councilor Patten for his December 13, 2011 communication to Officer Lovejoy; and

**WHEREAS** on March 12, 2012, the City Council offered Councilor Patten an opportunity to speak on his behalf relative to his December 13, 2011 communication with Officer Lovejoy;

**WHEREAS** on March 12, 2012, after review and deliberation, the City Council adopted the Rules Committee recommendation; and

**WHEREAS** on March 12, 2012, the City Council hereby reprimands Councilor Patten for his December 13, 2011 communication to Officer Lovejoy as inappropriate to the extent that it could intimidate or otherwise interfere with the official acts of Officer Lovejoy, and

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Concord that City Councilor Dick Patten is hereby reprimanded for his December 13, 2011 communication to City of Concord Police Officer Christian Lovejoy.

This CENSURE RESOLUTION is effective immediately upon passage.

The motion to accept passed with no dissenting votes.

Referring to other business, Mayor Bouley explained that Council has been in contract negotiations with firefighter union 1045 and is pleased to announce that the 1045 has voted to adopt the proposed tentative agreement and asked the City Solicitor to briefly run down the highlights.

City Solicitor Jim Kennedy indicated that as a result of the contract negotiations with the IAFF local firefighter union, the IAFF union has ratified an agreement that they have put together at the table with this collective bargaining agreement. The cost items for this agreement, which is pertinent for this body to vote upon, are as follows: a zero percent increase for a cost of living increase for the three year term; the inclusion of Civil Rights Day recognition (\$17,000/year); modified their annual leave access (\$20,000/year) – no additional days were granted but merely modified how they gain access with a projected increase to be 100 percent use of access; reconciling the dispatcher pay discrepancy (\$3,000) – when going to a new pay scale system, the Condrey pay scale system, an error had been with respect to how dispatchers are paid.

Mayor Bouley thanked Administration and the Firefighters 1045 noting that he supports the agreement.

The motion to approve the agreement passed with no dissenting votes.

**Adjournment**

The time being 9:39 p.m., Councilor Bennett moved to adjourn. The motion was duly seconded and passed with no dissenting votes.

*A true copy; I attest:*

*Michelle Mulholland  
Deputy City Clerk*