



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 to discuss the City Manager's Annual Evaluation to be held at 6:15 p.m.

City Council Meeting
Minutes
June 11, 2012
City Council Chambers
7:00 p.m.

1. The Mayor called the meeting to order at 7:00 p.m.
2. Invocation by Rabbi Robin Nafshi from Temple Beth Jacob Synagogue
3. Pledge of Allegiance.
4. Roll Call. Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, Grady-Sexton, Keach, Kretovic, St. Hilaire and Shurtleff were present. Councilors DelloIacono and Patten were late. Councilors McClure, Nyhan and Werner were excused.
5. Resolution in recognition of the services of Sergeant James Berry. (4-34)

Action: Sergeant James Berry was not present to accept his resolution.

6. Labor Relations Committee report relative to the City Manager's evaluation, in accordance with Section 21(b) of the City Charter.

Action: Mayor Bouley asked that this be moved to Thursday evening. He indicated that it they will hold a non-public meeting and then come out of the non-public meeting to take action on the City Manager's evaluation beginning at 6:30 p.m.

7. Approval of the May 14, 2012 and the May 31, 2012 meeting minutes.

Action: Councilor Grady-Sexton moved approval of the May 14, 2012 meeting minutes. The motion was duly seconded and passed with no dissenting votes. Councilor Grady-Sexton moved approval of the May 31, 2012 meeting minutes.

8. Agenda overview by the Mayor.

- *Consent Agenda Items* -

Action: Councilor St. Hilaire moved approval of the consent agenda, as amended, with item 29 removed from the consent agenda. The motion was duly seconded and passed with no dissenting votes.

Items Tabled for a June 18, 2012 Public Hearing

9. Resolution fixing and determining the amount of money to be appropriated by the City of Concord for the fiscal year 2013 ending June 30, 2013. (5-22)
10. Resolution amending the amount of money to be appropriated by the City of Concord for the fiscal year 2013 ending June 30, 2013. (5-23) *(To be submitted under separate cover).*
11. Resolution closing and completing certain capital projects; rescinding/de-authorizing appropriations; returning funds to their sources; and transferring, reappropriating or otherwise making remaining balances available for future purposes; together with report from the Senior Accountant. (5-24)
12. Resolution for the bonded projects within the Capital Budget for Fiscal Year 2013 (July 1, 2012 to June 30, 2013) hereby is authorizing and approving the expenditure of \$8,803,500 and authorizing the issuance of \$8,803,500 in bonds and notes for various capital projects more specifically identified below and in the attached worksheet 1; together with report from Deputy City Manager – Finance. (5-25)
13. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, by amending Schedule I of Article 1-5, Fees, Fines and Penalties, Water Rates. (5-26)
14. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, by amending Schedule I of Article 1-5, Fees, Fines and Penalties, Sewer Rates. (5-27)
15. Resolution amending the Fiscal 2013 City of Concord budget and appropriating the sum of \$30,600 for New Hampshire Municipal Association Dues.

Items Tabled for a July 9, 2012 Public Hearing

16. Resolution authorizing the City Manager to enter into interim lease agreements with non-city entities for use of the former Dame School located at 14 Canterbury Road, Concord; together with a report from Assistant for Special Projects.
17. Resolution approving the granting of a conservation easement to the Society for the Protection of New Hampshire Forests (SPNHF) on approximately 114 acres of land southerly

and easterly of Gully Hill Road, as approved by the Conservation Commission; together with report from the Conservation Commission.

18. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 35, Classification and Compensation Plan; Schedule D of Article 35-2, Class Specification Index, Administrative Supervisor; together with report from the Director of Human Resources and Labor Relations.
19. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 35, Classification and Compensation Plan; Schedule D of Article 35-2, Class Specification Index, Sewer System Supervisor and Water System Supervisor; together with report from the Director of Human Resources and Labor Relations.
20. Resolution appropriating the sum of \$390,000 retroactive to June 30, 2012 for compensation and fringe benefits in the Police and Fire Departments to be funded by actual and anticipated revenues in excess of fiscal year 2012 adopted budget amounts; together with report from the Deputy City Manager – Finance.
21. Resolution appropriating the sum of \$39,788 in Edward F. Byrne Grant Program Funds from the State of New Hampshire Department of Justice for the replacement of a Police Officer assigned to the New Hampshire Drug Task Force; together with report from the Police Department.

From the City Manager

22. Positive Citizen Comments.
23. Council meeting date calendar.

Consent Reports

24. Appropriation Transfer Report: May 2012
25. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$7,052.12 as provided for under the preauthorization granted by City Council.
26. Diminimus gifts and donations report from the Parks and Recreation Director requesting authorization to accept monetary gifts totaling \$16,013 as provided for under the preauthorization granted by City Council.
27. Report from the General Services Director recommending the City Manager be authorized to apply for and accept grant funds available from the New Hampshire Department of Environmental Services relative to Local Source Water Protection.

28. Report from the City Surveyor recommending City Council appoint the City Surveyor to act as the City's representative in performing perambulations with the City's abutting towns.
29. Report from the Parks and Recreation Director regarding July 4th festivities within the City of Concord. (*Communication from Deb Baker, Concord resident submitted*)(*Pulled from consent by Councilor Patten*)

Action: This item was removed for discussion at the end of the agenda.

30. Report from the Parks and Recreation Director regarding restoration of the fence at the Old North Cemetery in Concord.

Consent Resolutions

31. Resolution authorizing the City Manager to submit an application to the Target Grant Program to provide supplemental funding of up to \$2,000 for the 2012 National Night Out; together with report from the Police Department.
32. Resolution authorizing the City Manager by way of the Police Department to submit an application for reimbursement to the United States Department of Justice – Bulletproof Vest Partnership Grant Program in the amount of not more than \$10,000; together with report from the Police Department.
33. Resolution transferring the sum of \$80,000 from Compensation Adjustment; together with report from the Deputy City Manager - Finance.
34. Resolution authorizing the City Manager to submit an application to New Hampshire Housing Finance Authority for up to \$47,000 from the New Hampshire Community Planning Grant Program for the preparation of Architectural and Signage Standards and Guidelines for the Historic Downtown and Civic District, and their immediate adjacent commercial areas; together with report from the City Planner.
35. Resolution designating depositories for the City of Concord, New Hampshire for the Fiscal Year 2013; together with report from the City Treasurer.
36. Resolution relative to short-term investment of excess funds.
37. Resolution authorizing prepayment of 2012 taxes in accordance with RSA 80:52-a.

Appointments

38. City Manager's proposed reappointment to the Personnel Appeals Board.
Cecile Blakeslee Hartigan

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

39. **June 11, 2012 Public Hearings**

- A. Resolution accepting and appropriating the sum of up to \$200,000 in matched Brownfields Cleanup Sub-Grant Funds from the Capital Regional Development Council (CRDC) as well as appropriating the sum of \$35,000 from the Economic Development Reserve Fund for environmental remediation of city owned property located at 5, 11, 27, 31 and 35 Canal Street, Penacook known as the former Amazon Realty and Allied Leather Tannery sites; together with a report from the Assistant for Special Projects. (5-11)

Action: City Manager Tom Aspell provided a brief overview.

Councilor Bouchard inquired as to the total amount invested. Mr. Aspell responded that, with this grant and associated match, the city has invested approximately \$5,018,640.00 since 2002.

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

- B. Resolution amending and restating the Revolving Loan Fund's Program Income Reuse Plan (PIRP) with respect to emergency grants; together with a report from the Assistant for Special Projects. (5-12)

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.

- C. Resolution accepting and appropriating the sum of \$27,731 in unmatched grant funds from the United States Department of Justice, Edward Byrne Memorial Justice Assistance Grant Program, funds designated for law enforcement related programs; together with report from the Police Department. (5-13)

Action: City Manager Tom Aspell provided a brief overview.

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

- D. Resolution accepting and appropriating the sum of \$12,657.50 from the Concord School District in conjunction with a cooperative agreement for water system and pavement improvements along North Spring Street; together with a report from the City Engineer. (5-14)

Action: City Manager Tom Aspell provided a brief overview.

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

- E. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-2, Zoning Districts and Allowable Uses; Section 28-2-3, The Zoning Map; together with reports from Community Development, the Economic Development Advisory Council and the Planning Board in response to a communication from Richard Uchida, on behalf of his client 15 Integra Drive, LLC, with a rezoning request for property located off the temporary terminus of Integra Drive in Concord. (4-9) (5-15)

Action: Carlos Baia, Deputy City Manager-Development, provided brief overview explaining that the attorney representing his client has indicated that they have a potential 350,000 square foot warehouse user that would fall into an industrial category but the current industrial zone is too small to accommodate that use so the proposal would be to extend the zone line. Mr. Baia indicated that city staff has reviewed this plan and recommended its approval along with the Planning Board and EDAC.

Mr. Baia answered questions in regards to the displayed map.

Councilor Keach questioned whether this would enhance the development within this area. He further questioned whether it was consistent with what city staff thinks the area ought to be developed. Mr. Baia responded that it is consistent with the Garvins Falls plan in which envisioned industrial uses as well as office use at this area. In terms of future development, staff wants to ensure that it doesn't preclude any future development so the roadway connections and access is important.

Mayor Bouley opened the public hearing.

Public Testimony

Attorney Richard Uchida, Hinckley, Allen & Snyder, noted that this is consistent with the Garvins Falls urban reserve master plan and also consistent with the city's master plan. He indicated that rezoning makes sense in terms of the character of the Integra Drive area.

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

- F. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, by amending Schedule I of Article 1-5, Fees, Fines, and Penalties; together with report from the Deputy City Manager – Finance. (5-16)

Action: City Manager Tom Aspell provided a brief overview.

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

- G. Resolution accepting and expending the sum of \$5,360 for Energy Efficiency and Conservation Strategy Improvements and to install a solar domestic hot water system at the Manor Fire Station, CIP #325; together with report from the Purchasing Manager. (5-17)

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.

- H. Resolution to establish a new trust reserve account for investment fees collected in the water utility, and appropriate \$143,930.25 from restricted fund balance as a transfer to trust fund identified herein, funding for this appropriation shall be entirely from FY2011 restricted fund balance; together with report from the Deputy City Manager – Finance. (5-18)

Action: There being no Council objection, the titles for public hearings H through K were read together.

Brian LeBrun, Deputy City Manager-Finance, provided an overview explaining that the city contract with Weston and Sampson in 2007 to conduct a water and sewer financial analysis study. He indicated that one of the recommendations from the study was to segregate investment fees that were paid through the water and sewer funds into an interest bearing account to be used for debt service or other appropriate capital projects. He stated that this housekeeping change really makes it for a seamless and transparent reporting of these funds.

Councilor Keach inquired whether this allowed the city to invest in interest bearing accounts that are less restrictive than have been previously. Mr. LeBrun responded yes. Councilor Keach questioned whether it's limited by state statute. Mr. LeBrun replied that the limitation is really much less stringent than what the city has for the general surplus or the general funds of the city. Councilor Keach asked whether it allowed the city to be more aggressive in its investments. Mr. LeBrun indicated that, yes, they can be a little more aggressive but safe.

Mayor Bouley opened the public hearings for items H through K. There being no public testimony, the Mayor closed the hearings.

- I. Resolution to establish a new trust reserve account for investment fees collected in the wastewater utility, and appropriate \$170,188.05 from restricted fund balance as a transfer to trust fund identified herein, funding for this appropriation shall be entirely from FY2011 restricted fund balance. (5-19)

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

- J. Resolution appropriating \$25,000 as a transfer to trust fund reserve account for water utility investment fees, funding for this appropriation shall be entirely from FY2012 water investment fee revenue. (5-20)

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

- K. Resolution appropriating \$20,000 as a transfer to trust fund reserve account for wastewater utility investment fees, funding for this appropriation shall be entirely from FY2012 wastewater investment fee revenue. (5-21)

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

- L. Resolution authorizing the City Manager to enter into an agreement with Concord Housing Development Corporation concerning certain properties at 10, 16 and 18 Prince Street; together with report from the Assistant for Special Projects. (5Sus2) *(Copy of proposed Lease and Option Agreements between the City and Concord Housing Development Corporation concerning 10, 16, & 18 Prince Street; together with a supplemental report from Assistant for Special Projects and public testimony from the Trustees of the Concord Public Library received)*

Action: Matt Walsh, Assistant for Special Projects, provided an overview of both agreements. He explained that the benefits of both agreements are: city gets to forgo demolishing 10 Prince Street until such time that the city may need that property in the future for expansion of the campus; gives the city control over other property in the neighborhood for future expansion of the campus if needed.

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

May 14, 2012 Public Hearing Action

40. 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. (3-8) (4-38 A) (5-53 A) *(Public hearings held in April and May; action to be taken in June)*

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

June 11, 2012 Public Hearing Action

41. Resolution accepting and appropriating the sum of up to \$200,000 in matched Brownfields Cleanup Sub-Grant Funds from the Capital Regional Development Council (CRDC) as well

as appropriating the sum of \$35,000 from the Economic Development Reserve Fund for environmental remediation of city owned property located at 5, 11, 27, 31 and 35 Canal Street, Penacook known as the former Amazon Realty and Allied Leather Tannery sites; together with a report from the Assistant for Special Projects. (5-11)

Action: Councilor Blanchard moved approval. The motion was duly seconded and passed 12 to 0 on a roll call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady-Sexton, Keach, Kretovic, Patten, St. Hilaire and Shurtleff voting yes.

42. Resolution amending and restating the Revolving Loan Fund's Program Income Reuse Plan (PIRP) with respect to emergency grants; together with a report from the Assistant for Special Projects. (5-12)

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

43. Resolution accepting and appropriating the sum of \$27,731 in unmatched grant funds from the United States Department of Justice, Edward Byrne Memorial Justice Assistance Grant Program, funds designated for law enforcement related programs; together with report from the Police Department. (5-13)

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

Councilor Coen inquired as to who Edward Byrne is. Councilor Shurtleff explained that Edward Byrne was a New York City police officer who was assigned to protect an individual who was testifying against a drug dealer. He indicated that Officer Byrne was sitting outside in front of the subject's home and those that tried to attack the witness killed Officer Byrne. He added that a former senator from New York had this grant put into Officer Byrne's name.

The resolution passed 12 to 0 on a roll call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady-Sexton, Keach, Kretovic, Patten, St. Hilaire and Shurtleff voting yes.

44. Resolution accepting and appropriating the sum of \$12,657.50 from the Concord School District in conjunction with a cooperative agreement for water system and pavement improvements along North Spring Street; together with a report from the City Engineer. (5-14)

Action: Councilor Kretovic moved approval. The motion was duly seconded and passed 12 to 0 on a roll call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady-Sexton, Keach, Kretovic, Patten, St. Hilaire and Shurtleff voting yes.

45. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-2, Zoning Districts and Allowable Uses; Section 28-2-3, The Zoning Map; together with reports from Community Development, the Economic Development Advisory Council and the Planning Board in response to a communication from Richard Uchida, on behalf of his client 15 Integra Drive, LLC, with a rezoning request for property located off the temporary terminus of Integra Drive in Concord. (4-9) (5-15)

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

46. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, by amending Schedule I of Article 1-5, Fees, Fines, and Penalties; together with report from the Deputy City Manager – Finance. (5-16)

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

47. Resolution accepting and expending the sum of \$5,360 for Energy Efficiency and Conservation Strategy Improvements and to install a solar domestic hot water system at the Manor Fire Station, CIP #325; together with report from the Purchasing Manager. (5-17)

Action: Councilor Blanchard moved approval. The motion was duly seconded and passed 12 to 0 on a roll call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady-Sexton, Keach, Kretovic, Patten, St. Hilaire and Shurtleff voting yes.

48. Resolution to establish a new trust reserve account for investment fees collected in the water utility, and appropriate \$143,930.25 from restricted fund balance as a transfer to trust fund identified herein, funding for this appropriation shall be entirely from FY2011 restricted fund balance; together with report from the Deputy City Manager – Finance. (5-18)

Action: Councilor Grady-Sexton moved approval. The motion was duly seconded and passed 12 to 0 on a roll call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady-Sexton, Keach, Kretovic, Patten, St. Hilaire and Shurtleff voting yes.

49. Resolution to establish a new trust reserve account for investment fees collected in the wastewater utility, and appropriate \$170,188.05 from restricted fund balance as a transfer to trust fund identified herein, funding for this appropriation shall be entirely from FY2011 restricted fund balance. (5-19)

Action: Councilor Coen moved approval. The motion was duly seconded and passed 12 to 0 on a roll call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady-Sexton, Keach, Kretovic, Patten, St. Hilaire and

Shurtleff voting yes.

50. Resolution appropriating \$25,000 as a transfer to trust fund reserve account for water utility investment fees, funding for this appropriation shall be entirely from FY2012 water investment fee revenue. (5-20)

Action: Councilor Grady-Sexton moved approval. The motion was duly seconded and passed 12 to 0 on a roll call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady-Sexton, Keach, Kretovic, Patten, St. Hilaire and Shurtleff voting yes.

51. Resolution appropriating \$20,000 as a transfer to trust fund reserve account for wastewater utility investment fees, funding for this appropriation shall be entirely from FY2012 wastewater investment fee revenue. (5-21)

Action: Councilor Grady-Sexton moved approval. The motion was duly seconded and passed 12 to 0 on a roll call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady-Sexton, Keach, Kretovic, Patten, St. Hilaire and Shurtleff voting yes.

52. Resolution authorizing the City Manager to enter into an agreement with Concord Housing Development Corporation concerning certain properties at 10, 16 and 18 Prince Street; together with report from the Assistant for Special Projects. (5Sus2) (*Copy of proposed Lease and Option Agreements between the City and Concord Housing Development Corporation concerning 10, 16, & 18 Prince Street; together with a supplemental report from Assistant for Special Projects and public testimony from the Trustees of the Concord Public Library received*)

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

Appointments by the Mayor

Reports

New Business

Unfinished Business

Comments, Requests by Mayor, City Councilors

Comments, Requests by the City Manager

Consideration of items pulled from the consent agenda for discussion

29. Report from the Parks and Recreation Director regarding July 4th festivities within the City of Concord. (*Communication from Deb Baker, Concord resident submitted*)(*Pulled from consent by Councilor Patten*)

Action: Councilor Patten questioned the status of concession stand asking whether it was still workable.

David Gill, Parks and Recreation Director, indicated that years ago the Quarry Dogs used to sell t-shirts but then staff received a report from Code Administration that the old concession stand was past its life. He added that to have food there they need hot water, proper drainage, and there was a moisture issue. He indicated that a report will be forthcoming in regards to potential reuse.

Mayor Bouley asked Mr. Gill to provide Council with an update of where the city currently is in regards to 4th of July festivities. Mr. Gill indicated that they are still at a budget shortfall; one fundraising goal was to raise \$12,000 to \$13,000 to keep it at Memorial Field; the other was to raise \$18,000 to \$20,000 to bring it downtown. He indicated that as of today, they have raised approximately \$5,000. He noted that he feels that it's a great idea to bring downtown but may need another year to pull it together and to network with people.

Councilor Keach indicated that he is supportive of the change. He questioned whether a change in venue would require Council's approval. City Manager Tom Aspell indicated that he would come to the Council to find out what their preference would be.

Councilor Bouchard moved approval of the report. The motion was duly seconded and passed with no dissenting votes.

Consideration of Suspense Items

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

- 6 Sus1 Rules of the Board of Ethics (*Not previously distributed*)

Action: Councilor Shurtleff moved approval of the rules. The motion was duly seconded.

Councilor Coen questioned whether the Legal Department reviewed the rules. City Manager Tom Aspell responded yes.

Mayor Bouley asked Legal staff to explain how this came about. Danielle Pacik, Deputy City Solicitor, explained that in September 2011 the Board of Ethics was created along with ethic rules. In terms of the Board of Ethics, she indicated that the board was just nominated and their first task is to adopt rules and under the ordinance

those rules are required to be approved by the City Council. Ms. Pacik noted that Legal has been involved with assisting the board with drafting rules and also answering any questions. She indicated that the rules were passed by the board on Friday, June 8th and are really intended to set forth the procedure for reviewing complaints, as well as holding hearings and making recommendations to the City Council in terms of any findings and recommendations on whether or not a violation has occurred.

The motion to adopt passed with no dissenting votes. Mayor Bouley and Councilor St. Hilaire abstained from voting.

Adjournment

The time being 7:55 p.m., Councilor Kretovic 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 to discuss the City Manager's annual evaluation. The motion was duly seconded and passed with no dissenting votes.

A true copy; I attest:

*Michelle Mulholland
Deputy City Clerk*