



City Council Meeting

Minutes

February 14, 2011

Non-public meeting in accordance with RSA 91-A: 2, I (a) to discuss collective bargaining strategies to be held following the City Council meeting.

City Council Chambers

7:00 p.m.

1. Mayor Bouley called the meeting to order at 7:00 p.m.
2. Invocation by the Reverend Peter Hey, Wesley Methodist Church.
3. Pledge of Allegiance.
4. Roll Call. Councilors Bennett, Blanchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady, Keach, McClure, Nyhan, St. Hilaire, Shurtleff and Stetson were present. Councilor Patten arrived late. Councilors Bouchard and Werner were excused.
5. Approval of the January 10, 2011 and the January 24, 2011 meeting minutes.

Action: Councilor Grady moved approval of the January 10, 2011 meeting minutes. The motion was duly seconded and passed with no dissenting votes. Councilor Nyhan moved approval of the January 24, 2011 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

6. Resolution – Military Community Covenant.

Action: Mayor Bouley indicated that around a year ago the State of NH, led by Governor Lynch, signed a military community covenant to NH military families. Councilor Shurtleff recognized Ned Brooks, Concord Veterans Council; thanking the veteran's council for all that they do for the city. He further recognized Dr. Griff Dalianis, State Veterans Council, and Major General Reddel, NH National Guard.

Major General Reddel thanked Council for signing the covenant. Dr. Dalianis made introductions of individuals within the audience.

Mayor Bouley read the Military Community Covenant resolution.

7. 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 following unfinished business.

Councilor St. Hilaire moved approval of the consent agenda, as amended, with items 36 and 37 moved to the end of the agenda for discussion. Item 31 was removed from the consent agenda for a separate vote to be taken. The motion was duly seconded. The consent agenda, as amended, passed with no dissenting votes.

Referral to Concord Area Transit and the Public Safety Advisory Committee

8. Petition from residents of Horseshoe Pond Place in Concord requesting a snow shelter at the bus and trolley stop at Horseshoe Pond Place as well as a plowed walkway to North State Street.

Referral to Community Development

9. Communication from New Hampshire Lottery requesting a license to erect a sign on Manchester Street directing customers to lottery headquarters on Integra Drive.

Items Tabled for a March 14, 2011 Public Hearing

10. 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; Knight Street; together with a report from the Parking Manager.
11. 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; Rumford Street; together with a report from the Parking Manager.
12. Capital Improvement Program (CIP) Out Years.
13. Report from the Recreation Director recommending increased rental fees for users of indoor and outdoor recreation facilities
14. Ordinance amending the Building and Housing Codes by adopting the 2009 Editions of the International Building Code and the International Residential Code; together with a report from the Code Administrator.
15. Ordinance amending the Housing Maintenance and Occupancy Codes by adopting the 2009 Edition of the International Property Maintenance Code.
16. Resolution reaffirming and readopting the Community Development Block Grant Program Code of Ethics Policy and Financial Management Plan; together with report from the Community Development Advisory Committee.

From the City Manager

17. Positive Citizen Comments.

18. Council meeting date calendar.

Consent Reports

19. Appropriation Transfer Report: January 2011.
20. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$2,387.30 as provided for under the preauthorization granted by City Council.
21. Diminimus gifts and donations report from the Fire Department requesting authorization to accept monetary gifts totaling \$1,108.20 as provided for under the preauthorization granted by City Council.
22. Diminimus gifts and donations report from the Recreation Department requesting authorization to accept monetary gifts totaling \$3,750 as provided for under the preauthorization granted by City Council.
23. Overall Economic Development Plan (OEDP) Annual Report – CY 2010.
24. Report from the Economic Development Advisory Council on the City's economic development goals.
25. FY2011 Semi-annual report of contracted solid waste and recycling services.
26. Current Use change Tax Status report from the City Assessor.
27. Comprehensive Annual Financial Report (CAFR) and City of Concord, New Hampshire Management Letter, for the year ended June 30, 2010.
28. 2010-2011 Council Quarterly Priorities Report.
29. Report from the Director of Real Estate Assessments regarding the renewal of the voluntary Payment in Lieu of Taxes (PILOT) agreement between Fellowship Housing Opportunities, Inc. and affiliates and the City of Concord.
30. Report from the Golf Course Advisory Committee recommending Beaver Meadow Golf Course greens fees for the 2011 season
31. Report from the City Manager regarding an agreement between the City of Concord, the Concord School District and Concord Community TV for the continued development and operation of Concord Community TV.

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

Mayor Bouley announced that this is the agreement between the City of Concord, the Concord School District and Concord TV. He indicated that it had been requested by a community member that a public hearing be held on this but in consultation with the Solicitor, the City Manager and the Clerk it is not something that is typically done. He stated

that, based on precedent, Council will go forth with an approval this evening explaining that if it was a new contract being put out to bid, they would take public testimony but because it's a continuation of an existing contract, they continue to move on as is.

Councilors DelloIacono and Bennett recused themselves from voting on this item. The motion to approve passed with no dissenting votes.

32. Report from the City Engineer recommending that the City Manager be authorized to acknowledge, in writing, the State of NH's reclassification of a portion of Clinton Street from a Class II highway to a Class IV highway.
33. Report from the City Engineer recommending that the City Manager be authorized to 1) enter into an agreement with the State of NH to establish the right-of-way limits of Old Sheep Davis Road and NH Route 106 - Sheep Davis Road, and 2) acknowledge, in writing, the State's reclassification of Old Sheep Davis Road from a Class II highway to a Class V highway.
34. Report from the City Engineer recommending that a private water service be licensed within the City's right-of-way on Broad Cove Drive.
35. Report from the Deputy City Manager – Development concerning Public Service of New Hampshire's Northern Pass project.
36. Report from the Parking Manager on alternate customer payment options for the Capital Commons Parking Garage. (*Pulled from consent by Councilor Coen*)

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

37. Report from the Deputy City Manager – Development on a license agreement for “The Draft” proposed balcony. (*Pulled from consent by Councilor Coen*)

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

38. Report from the Recreation Director recommending increases in fees and charges for recreation programs and camps.

Consent Resolutions

39. Resolution in recognition of the services of City Prosecutor, Scott W. Murray. (*For presentation in March*)
40. Resolution authorizing the City Manager by way of the Police Department to submit an application to the New Hampshire Department of Justice as outlined in its current grant program for the purpose of participating in the enforcing underage drinking laws program; together with report from the Police Department.
41. Resolution authorizing the City Manager to submit an application to the State of New Hampshire Department of Justice for the Edward F. Byrne Grant Program providing funding

for a Police Officer assigned to the New Hampshire Attorney General's Drug Task Force; together with report from the Police Department.

42. Authorizing the City Manager to submit a grant application for up to \$425,000 to the Federal Aviation Administration (FAA) and the New Hampshire Department of Transportation (NHDOT), Division of Aeronautics, for the purpose of designing a parallel taxiway for Runway 12/30 at the Concord Municipal Airport, CIP #73; together with report from the Associate Engineer.

Consent Communications

43. Street closure request for Concord Market Days to be held July 14 through July 16, 2011.
44. Street closure request for a Community Action Program Belknap – Merrimack Counties, Inc. March for Meals walkathon to be held on Saturday, May 14, 2011.
45. Street closure request for the Making Strides Against Breast Cancer walk to take place on Sunday, October 16, 2011.

Appointments

46. City Manager's proposed appointments to the Heritage Commission.
Bryant F. Tolles, Jr. and Carol Durgy Brooks
47. City Manager's proposed appointment to the Board of Trustee's of Trust Funds.
Jeffrey L. Schindler

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

48 February 14, 2011 Public Hearings

- A. Resolution appropriating the sum of \$13,400 for the costs to demolish, remove and dispose of the hazardous building at 149 Rumford Street, Concord, New Hampshire, and said funds to be withdrawn from the operating and maintenance account for tax deeded property; together with a report from the Code Administrator. (1-13)

Action: City Manager Tom Aspell provided a brief overview.

Councilor Blanchard inquired as to the value of the land once the property is demolished. Mr. Aspell responded that he was unsure but that it is greater than the \$13,400.

Mayor Bouley opened the public hearing. There being no 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 Legal Department. (11-43B; 11-45) (1-14)

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.

- C. Ordinance amending the Code of Ordinances, Title IV, Subdivision Code; Chapter 29.2, Public Capital Facilities Impact Fees Ordinance; Section 29.2-1-2, Assessment and Collection; together with a report from the Planning Board on the Annual Review of the Public Capital Facilities Impact Fee Ordinance. (1-15) *(Supplemental ordinance and report submitted; public testimony received)*

Action: City Manager Tom Aspell provided a brief overview.

Councilor Stetson moved to bring forth the substitute ordinance for a public hearing. The motion was duly seconded and passed with no dissenting votes.

Referencing an article in the Concord Monitor, Councilor Shurtleff indicated that Doug Woodward, Planning, came up with a possible compromise to make the increases more palatable asking whether this could be elaborated upon, a partial increase and then another partial increase to get the city back on track. Carlos Baia, Deputy City Manager-Development, indicated that the last time that the rates were adjusted were in 2007 so it has been three years. He stated that the supplemental ordinance reflects the 2009 rates which in essence would be a two year increase; next year, if the Council wishes to pursue it, they can make up the last two years so that the city would be back on track.

Mayor Bouley clarified that Council is only being asked this evening, under the revised proposal, to adopt the 2009 levels. He pointed out that whatever is done next year, the Council who is elected for next year, will have to discuss and vote on it. Mr. Baia indicated that to be correct.

References percentages, Councilor Keach asked what this increase will translate to. Mr. Baia responded that he did not have the percentage calculated noting that he believes that going to the 2010 rates was maybe a percentage in the ballpark of 11.3 percent for one of the fees and over 8 percent, so this would be less than that. Councilor Keach asked whether it would be fair, in a ballpark estimate, to say half of that. Mr. Baia replied that he doesn't want to say half. Mr. Aspell noted that it's a little more than that explaining that they changed from 2007 to 2008 with 6.49 percent; the change from 2008 to 2009 was -0.17 percent; from 2009 to 2010 was 1.89 percent. He indicated that it would be more like 60 to 65 percent.

Mayor Bouley indicated that it is a different percentage depending on what they are talking about. Mr. Aspell indicated that to be correct clarifying that he was citing the school impact fee changes.

Councilor DelloIacono asked for clarification. Mr. Aspell explained that when the impact fees are paid, it depends upon the type of development that it comes in. For example, if a residential development, you pay for all: school, recreation and

transportation; businesses pay only for transportation because they don't generate the recreation and school needs. He stated that the business community generates a lot of traffic so their fees are generally high which is why improvements that they will be seeing off of Manchester Street are almost entirely paid by impact fees.

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

- D. Resolution amending the North End Opportunity Corridor Tax Increment Development Program and Financing Plan for the established North End Opportunity Corridor Tax Increment Finance District to allow for annual meetings of the NEOCTIF Advisory Board; together with a report from the Deputy City Manager – Development. (1-16)

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

- E. Resolution accepting and appropriating the sum of \$3,927 in grant funds from the New Hampshire Highway Safety Agency to be utilized towards the purchase of two (2) radar traffic data recorders; together with report from the Police and Engineering Departments. (1-17)

Action: City Manager Tom Aspell provided a brief overview.

Referencing the data collected, Councilor St. Hilaire asked if there is any type of personal information that's recorded and held. Mr. Aspell responded no indicating that it records speeds. Councilor St. Hilaire asked if this would help if people complain to the city about speeding in a particular area in the city and the city places this up to look at the data as far as what the average speed is. Mr. Aspell indicated that it would. Councilor St. Hilaire asked whether the city currently had anything like this questioning whether the trailer they have records anything. Robert Mack, Engineering, noted that the radar recorders do not collect any personal data it is a pure data collector that uses a radar beam image to sense the speed of vehicles, counts vehicles and classifies vehicles. Councilor St. Hilaire questioned whether this was different than the trailers that the city uses that tell drivers what their speed limit is. Mr. Mack replied that it is different explaining that it's a small box that gets mounted on a utility pole and it finds out what is happening with speeds and volumes without affecting driver's speeds. He stated that the trailers are intended to slow people down.

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

- F. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing, and Parking; Section 18-1-5, All Night Parking Prohibited; together with report from the Parking Committee. (*public testimony submitted*)

Action: There being no Council objection, City Clerk Janice Bonenfant read the titles for both items F and G.

Carlos Baia, Deputy City Manager-Development, provided a brief history and detailed overview of items F and G.

Councilor Nyhan inquired as to how many people, in total, attended the public forums. Mr. Baia replied that there were approximately 25 properties represented which were about 12 owners that attended the meetings. Councilor Nyhan, referencing the feedback, asked if this was from 12 people. Mr. Baia indicated that to be correct.

Councilor McClure noted that it was indicated that this was initiated by a number of requests and asked how many requests there were. Mr. Baia responded that these were requests that went to Council and was Council's direction that staff pursue this. Councilor McClure inquired as to the number of requests. Mr. Baia replied that he did not have a definitive number. Councilor McClure noted her confusion as to how the city plans to notify people of the snow removal event. Mr. Baia indicated that staff issues press releases via email to the media outlets and anyone that is signed up on the email list receives a message that there is a parking ban in effect. He added that the city is also looking to do a facebook page and anyone that "friends" the page, then any notification that is placed on here will be sent to that party. It was noted by Police Chief Barry that paper signs are placed in the snow banks on the streets to indicate that there is no parking to allow for snow removal.

Referencing Councilor Nyhan's question, Councilor Coen pointed out that out of the twelve people that attended the forums, one was a group from the Penacook Village Association. He noted that there were also emails and conversations, dialogue, about either pro or against it.

Councilor Blanchard questioned whether the businesses in Penacook Village are part of the email network so that they are notified of any snow removal. Chief Barry indicated that he was unsure.

Councilor DelloIacono asked what staff felt about towing capacities as far as the tow companies being able to get everywhere around the city. Chief Barry responded that he suspects that it will take some getting used to for the tow companies and the city. He indicated that people are currently used to it downtown. Parking Manager Dave Florence added that the average has been 7 to 8 cars per storm. Chief Barry noted that it seems that there are more problems with parked cars on the maintenance ban than on the actual snowstorm. Mr. Florence stated that the city currently runs between 4 and 5 companies during a storm and they each supply one vehicle and that many companies have more vehicles and they would have more than one truck available. Councilor DelloIacono indicated that he has received correspondence from residents regarding narrow streets and asked what the process would be to ban overnight parking on a specific street. Mr. Baia explained that currently if anyone has a parking issue, they can make a request through the Parking Committee in which they would review each request on a case by

case basis and analyze in terms of its merits and make a recommendation back to the City Council.

Councilor Grady noted that it was indicated that there would be no public safety concerns if this ban were to be lifted with maneuvering emergency vehicles in and out of narrow streets in the evening hours. Chief Barry indicated not from them. Fire Chief Dan Andrus confirmed the same.

Mayor Bouley opened the public hearing for items F and G.

Five Minute Public Testimony

Roy Schweiker, Concord resident, suggested that Council determine as a guideline that all streets 20 feet and narrower do not allow overnight parking and then allow people on a case by case basis to protest either way. Mr. Schweiker indicated that this would be a positive change for those landlords that had difficulty renting properties with no parking although he felt other viable options were available in many cases.

Dietz Heinz noted that if there is enough room in the daytime with cars parked for emergency vehicles to get by on narrow streets why wouldn't there be enough room in the evening with cars parked. He indicated that he owns several units and explained how the residents of these units park. He added that he would like to see more parking in downtown Penacook as well.

Brent Todd, speaking on behalf of the Penacook Village Association, noted that they are in favor of the ordinance.

Kathy Bush, Penacook Village Association President, indicated that they had three meetings in regards to this and that they usually have an attendance of 12 up to 40 people at their meetings on Saturday mornings. She noted that they had a lot of discussion in the community all in favor with no opposition stated at any of the meetings about lifting the overnight ban.

Brent Todd added that they also have a business development subcommittee of the association and the overnight ban, they are hoping, would be something that would enable downtown Penacook businesses to redevelop their upper stories. He stated that his guess is that the association would also be available to the residents of Penacook on a case by case basis for those who are concerned or who have hardships that might develop as a result of lifting the ban.

Ms. Bush added that they would facilitate with communication just as Main Street Concord has because they would be able to extend their email list as well.

Councilor Nyhan asked what the association's main focus is on. Mr. Todd responded that they are speaking on behalf of the Village of Penacook. Councilor Nyhan questioned whether it would be appropriate to at least at some point discuss possibly lifting the ban in the areas that they are concerned about in the Penacook Village area without having to lift the ban across the entire city, asking whether this would solve their immediate

concerns. Mr. Todd replied that they are here this evening to report that they have not heard anything negative with regard to lifting the ban. He added that had they heard that, it would be their duty and obligation to come to Council to let them know what they had heard. He stated that they don't have any compelling reason to propose any alternate plan at this time. Councilor Nyhan asked whether they are advocating for lifting the ban across the entire city at the expense of not lifting it in Penacook if Council were to vote on this as a complete ordinance package or are they recognizing the fact that their may be a compromise solution here where they could do something in the core of downtown Penacook that would solve the Penacook Village Associations concerns. Councilor Nyhan added that this may very well be one of those types of issues that if it is going to go down the entire city, they may lose out in Penacook Village. However, if they could identify those areas that are particularly problematic there may be an opportunity to do something with that ban that would help out Penacook Village. Mr. Todd replied that they would certainly be in favor of any opportunities that would help out the village. He noted that he did not quite follow some of what Councilor Nyhan was stating so he can't really speak to it.

Councilor Keach asked whether the Penacook Village Association is just the downtown area or if it included residential areas. Mr. Todd indicated that it included residential areas. Councilor Keach asked whether the residential areas in Penacook are similar to the residential areas in Concord. Mr. Todd replied yes.

Philip Lawrence noted that when the West Congregational Church developed the preschool it was a requirement that they improve the city parking lot across Garrison Street and his concern is that if they allow overnight parking, that the cars will be there in the morning when the preschool needs the parking area. He indicated that his other concern is they are mandated to maintain it such as paving it, striping it and plowing it and if this is opened up to 24 hour parking they may lose access to the parking and have liability in regards to plowing.

Councilor Coen asked whether Mr. Lawrence had an opinion either way regarding citywide. Mr. Lawrence responded that he believes that the city would be more friendly by allowing parking overnight in areas in which it would not conflict with safety concerns.

Jessica Eschleman, Main Street Concord Director and Parking Committee member, indicated that she is appreciative of the city contacting the media whenever there is a ban however, they send emails to over 800 people to notify them whether it is a storm event or maintenance ban. Additionally, they have had much success with facebook and that it is an excellent means to get communication out. She explained that as part of rethinking Main Street, they conducted focus groups in August 2010 engaging with more than 75 stakeholders and one of the questions that the Parking Committee asked that she ask these participants is their thoughts about the current permissions to park on-street overnight in the downtown and also their thoughts if it were to be expanded citywide. She stated that the most common response was that this is a no brainer.

Three Minute Public Testimony

Roy Schweiker passed around a copy of a handout in regards to sidewalks and parking. He stated this as one of the issues that he sees as a problem of having more people parking all the time. He noted that this will probably mean that there will be less sidewalks indicating that this is something that he has noticed this year. He stated that the streets are being maintained just fine but that the sidewalks are atrocious as compared to previous years noting that what the city seems to be doing is taking all of the snow from the street and plowing it up on the sidewalks. He noted his concern with enforcement indicating that he feels that the city may have to place parking enforcement officers on night and weekend shifts. He also suggested parking permits.

Mayor Bouley questioned whether Mr. Schweiker whether he supports this or opposes this. Mr. Schweiker responded that he opposes it citywide unless Council makes exceptions for narrow streets.

In terms of Mr. Schweiker's comments on snow plowing, Mayor Bouley noted that he would argue that the city has done an outstanding job with snow plowing. He explained that when it comes to sidewalks, the city has a pecking order and works with the local schools and PTO's and makes sure that the children have a safe route to walk to school noting that this is the number one priority. He indicated that the city works on the downtown and then gets to the more residential areas. He pointed out that the city has six pieces of equipment that plow the sidewalks. He further challenged anyone in the community to go out to another community and take a look at what they do and on the services that they provide and compare them to what the city provides.

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

G. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing and Parking.

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

February 14, 2011 Public Hearing Action

49. Resolution appropriating the sum of \$13,400 for the costs to demolish, remove and dispose of the hazardous building at 149 Rumford Street, Concord, New Hampshire, and said funds to be withdrawn from the operating and maintenance account for tax deeded property; together with a report from the Code Administrator. (1-13)

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

50. 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 Legal Department. (11-43B; 11-45) (1-14)

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

51. Ordinance amending the Code of Ordinances, Title IV, Subdivision Code; Chapter 29.2, Public Capital Facilities Impact Fees Ordinance; Section 29.2-1-2, Assessment and Collection; together with a report from the Planning Board on the Annual Review of the Public Capital Facilities Impact Fee Ordinance. (1-15) (*Supplemental ordinance and report submitted; public testimony received*)

Action: Councilor Nyhan moved approval of the supplemental ordinance which reflects the 2009 fee schedule. The motion was duly seconded and passed with one dissenting vote.

52. Resolution amending the North End Opportunity Corridor Tax Increment Development Program and Financing Plan for the established North End Opportunity Corridor Tax Increment Finance District to allow for annual meetings of the NEOCTIF Advisory Board; together with a report from the Deputy City Manager – Development. (1-16)

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

Councilor Blanchard clarified for the public that they used to meet on a quarterly basis and now they will be allowed to only meet annually.

The motion to approve passed with no dissenting votes.

53. Resolution accepting and appropriating the sum of \$3,927 in grant funds from the New Hampshire Highway Safety Agency to be utilized towards the purchase of two (2) radar traffic data recorders; together with report from the Police and Engineering Departments. (1-17)

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

54. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing, and Parking; Section 18-1-5, All Night Parking Prohibited; together with report from the Parking Committee. (*public testimony submitted*)

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

Councilor Nyhan indicated that he is going to propose an amendment. He noted that what he wanted to speak to is, out of respect for the Parking Committee there is a lot of work that has gone into this but he feels that there has been very little input from the public as to what the public wants. Mayor Bouley noted that Councilor Nyhan may want his amendment to be for item 55 and not this one.

City Manager Aspell explained that this ordinance deletes 18-1-5 in its entirety and the second ordinance establishes citywide parking. He asked what the suggestion is if Council decides to leave part of the city untouched by this change. Deputy City Solicitor Jim Kennedy responded that it can be amended to the second ordinance to the extent that that first prohibition is removed and then the next question is do they pass that second ordinance that

has been proposed and whether or not and to the extent that second ordinance would be amended.

Mayor Bouley stated that the way he understands it is that if Council wants to make changes, Council would adopt this first ordinance and make the changes to the second ordinance. Mr. Kennedy responded that would be the easiest way to do it.

Councilor St. Hilaire asked that if a car stays in one spot for a long period of time, how long can it stay there. It was indicated that the amount of time is 48 hours.

Mayor Bouley asked why this issue was put into two separate items. Parking Manager Dave Florence explained that working with the Legal Department, one is removing the existing ordinance that allows the city to have the overnight parking and the second one was to go into if the city has no overnight parking, how do they control it with the 48 hours. Mayor Bouley noted that he understood but that if Council wanted to make changes, it puts them in an awkward bind. Mr. Kennedy explained that Council could repeal subject to approval of the second proposed ordinance.

Councilor Coen amended his original motion for approval subject to approval of the second proposed ordinance. The amended motion was seconded.

Councilor Keach noted his support of the subject to amendment and is in favor of moving forward this evening. He feels that this issue has gone on far too long and that there has been opportunity for ample public input and needs to be decided.

Councilor Blanchard asked for an explanation as to the ramifications of the subject to motion. Mr. Kennedy responded that Council has in the first ordinance to propose the elimination of the overnight parking ban. He explained that that will pass with the motion as presented by Councilor Coen subject to the Council's agreement on passing the second parking ordinance. Councilor Blanchard noted her confusion if the second ordinance gets amended.

Council discussion followed in regards to clarification to the amended motion.

Councilor Coen's motion passed with no dissenting votes.

55. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing and Parking.

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

Councilor Nyhan noted his agreement with Councilor Keach that Council should take a vote on this tonight but the overall majority of testimony that he has received are individuals who are opposed to this and don't want this changed. He stated that if the problem they are trying to address is overnight parking in areas where there are multi-tenant dwellings where on street parking is required, then they should be addressed in those areas but to create a blanket wide policy in the neighborhoods that don't want it just doesn't make any sense.

Councilor Nyhan moved to refer this item back to city staff and ask for additional input on how to address the problem not to lift this ban citywide. The motion was duly seconded.

Councilor Blanchard noted that the Penacook Village Association was saying that they had no opposition to this so the intent at this point is that they are in favor of it being throughout the downtown village commercial area and the residential areas in Penacook. She indicated that as far as Penacook is concerned, they don't have a problem with expanding the downtown overnight parking to the whole village. She added that there has been some discussion that if this passes, if anyone feels that there are problem areas then that would come back to Council and then they would make any exceptions. She stated that she is not in favor of the amendment.

Councilor Keach noted that he was not in favor of the amendment pointing out that Council has been told that the citywide lifting of the ban would cause no public safety issues and that snow removal would not be impacted. He noted his concern with piece mailing and identifying different neighborhoods explaining that he feels that it would create a class of second class citizens who in some neighborhoods have the right to park overnight and other neighborhoods don't have the right to park overnight. He added that they are only talking about 4 hours of cars on the street in the middle of the night and his sense is that nobody is really going to notice and feels that what drives some of the opposition is fear of change.

Councilor Bennett stated that he is opposed to the amendment. He indicated that people had ample opportunity to come before this Council and on numerous occasions had the opportunity to attend community forums. He added that this has worked for 2 ½ years in Ward Six, has worked out well and it's time that this is done citywide.

Councilor McClure indicated that she also opposes the amendment. She feels that if the city is going to move forward with this proposal, they have to look at it throughout the city and not look at it as a proposal that Council will then accept and welcome people to come in and create exceptions for their streets because then they are facing a huge enforcement nightmare throughout the city. She asked staff if it is more feasible to do this citywide and that, indeed if they are going to do it, they should do it with the intention of maintaining throughout the city. Mr. Baia explained that the Parking Committee felt exactly the same way she just expressed that, from an enforcement perspective, it would be easier to do it citywide however recognize that there are differences in neighborhoods. He indicated that, as far as the notion that there could be exemptions and how that would underlie that effort, he referenced Ward Six in which there haven't been any exemptions.

In response to Councilor Bennett, Councilor Nyhan indicated that the people in Ward Seven called him so they didn't have to show up at the forums. He stated that only 12 people showed up citywide to speak about this. He explained that he is not looking for an exception for Ward Seven but feels that they should address the issue where it exist, in the greater downtown area, Penacook Village and areas with multi-resident dwellings. He agreed that he does not want to carve out street by street but however there are residents in some areas that do not want this.

Councilor DelloIacono noted that he will be voting against the amendment. He stated that he has received a dozen responses to this in the positive and only three negative and feels that there is more support of this than the twelve people that attended the forums.

Councilor Coen indicated that he understands Councilor Nyhan's point that if there were a lot of people for it why didn't they show up at the forums and pointed out that if there were a lot of people against it, why didn't they show up to the forums.

Councilor Blanchard pointed out that this is only for four hours and that parking on all of those streets are allowed the rest of the 24 hour period except for those four hours. She noted that she does not feel that this will be much of a problem as they may have envisioned.

Councilor Nyhan's amendment failed on a voice vote.

The motion to approve the ordinance as proposed passed 11-2 on a roll call vote with Councilors Patten, St. Hilaire, Shurtleff, Stetson, Bennett, Blanchard, Mayor Bouley, Councilors Coen, DelloIacono, Keach and McClure voting yes. Councilors Nyhan and Grady voted no.

Reports

56. Resolution transferring the sum of \$1,681 from contingency to dues and memberships – New Hampshire Municipal Association; together with report from the Deputy City Manager - Finance.

Action: City Manager Tom Aspell provided a brief overview.

Councilor Nyhan moved approval. The motion was duly seconded and passed on a voice vote. Mayor Bouley and Councilor Bennett took Rule 6A.

57. Fiscal Monitoring Report.

Action: Brian LeBrun, Deputy City Manager – Finance, provided an overview of the Fiscal Monitoring Report.

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

58. Annual setting of the tax rate.

Action: City Manager Tom Aspell provided a brief overview explaining that the Fiscal Policy Advisory Committee is recommending a 2.5 percent tax rate increase target which will leave a budget gap of \$2.44 million in the pro forma.

Mayor Bouley noted that this would reduce by \$2.4 million what the city offers in services. He stated that he is sure that Administration will come back with a budget that reflects the needs of the community.

Councilor Blanchard inquired whether the \$1.5 million surplus offsets the \$2.44 million. City Manager Aspell explained that the purpose of those dollars was to use them for one time capital expenditures primarily for roads.

Mayor Bouley indicated that one of the key priorities for the Council is improvement of the roads and it was over \$600,000 that they put towards that.

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

59. Transportation Policy Advisory Committee 2010 Bicycle Master Plan.
(submitted in February for March presentation)

Action: No action taken. Presentation to be held at the March Council meeting.

60. Report from the Public Safety Board on the Proposed Fire Department reorganization. (9-41)

Action: Councilor Stetson provided a brief overview of the report.

Councilor Stetson moved to have this item brought forth in March for an April public hearing. The motion was duly seconded and passed with no dissenting votes.

Unfinished Business

61. Report from the Deputy City Manager - Community Development in response to a communication from Holly Carlson on behalf of Manchester Street businesses requesting City Council consider a zoning change to the existing sign ordinance. (4-10) (8-39) (9-48) (10-39) (11-38) (12-40) (1-53) (2-47) (3-48) (4-61) (5-68) (6-53) (7-54) (9-42) (10-44) (11-52) (12-47) (*Report tabled at the September 14, 2009 City Council meeting; supplemental report submitted to Council April 12, 2010; no action taken*)

Action: Councilor Coen moved to take this item off the table. The motion was duly seconded.

Councilor Coen explained that he would like to have this taken off the table so he can make a motion not to accept the report thereby terminating further debate.

The motion to take off the table failed 5-8 on a show of hands vote.

62. Resolution approving the acquisition of open space property northerly of Clarke Street, and authorizing the expenditure of up to \$11,000 from the Conservation Fund for this purpose, as approved by the Conservation Commission; together with report from the Conservation Commission. (5-10) (6-54) (7-55) (8-40) (9-43) (10-45) (11-53) (12-48) (Tabled setting this item for a public hearing at the May 10, 2010 City Council meeting)

Action: Councilor Coen moved to take this item off the table. The motion was duly seconded.

Councilor Coen explained that he would like to have this taken off the table so he can make a motion not to accept the report thereby terminating further debate.

The motion to take off the table failed on a voice vote.

63. Report from Community Development in response to a report from the Heritage Commission in response to a communication from Councilor Shurtleff requesting East Street, located in the village of Penacook, be renamed Canal Street. (3-9) (5-25) (8-38) (9-44) (10-46) (11-54) (12-49) (*Report approved for a future public hearing at the August 9, 2010 City Council meeting*)

Action: This item remains on the table

Comments, Requests by Mayor, City Councilors

Referencing agenda item 8, Councilor Stetson indicated that he had wanted to take this item off the consent agenda but forgot to do so at the beginning of the meeting. Councilor Stetson moved to reconsider action on item 8. The motion was duly seconded and passed on a voice vote. Item 8 will now be moved to consideration of items pulled from the consent agenda for discussion.

Councilor St. Hilaire noted that the Black Ice Pond Hockey was a great event for families and for Concord.

Councilor Nyhan thanked Recreation Director David Gill and Chris Brown for organizing the event.

Mayor Bouley stated that the Black Ice Pond Hockey was a wonderful event. He noted that the Council had challenged the Recreation Department and other city departments to be creative, be innovative and to come back with different ways to help fund city programs. He indicated that Mr. Gill took that challenge and did a great job in partnering with the community.

Consideration of items pulled from the consent agenda for discussion

Items 36 and 37 were pulled from the consent agenda to be discussed following unfinished business items on the agenda.

Referral to Concord Area Transit and the Public Safety Advisory Committee

8. Petition from residents of Horseshoe Pond Place in Concord requesting a snow shelter at the bus and trolley stop at Horseshoe Pond Place as well as a plowed walkway to North State Street.

Action: Councilor Stetson asked why this was being referred to the Public Safety Advisory Committee indicating that this committee has nothing to do with plowing sidewalks or maintaining bus shelters.

Councilor Stetson moved to remove the referral to the Public Safety Advisory Committee and to add that it be referred to Administration and General Services. The motion was duly seconded and passed with no dissenting votes.

36. Report from the Parking Manager on alternate customer payment options for the Capital Commons Parking Garage. *(Pulled from consent by Councilor Coen)*

Action: Councilor Coen indicated that the reason that he pulled this is because they have had an ongoing discussion about the gates and the pay system at the Capital Commons Parking Garage and that several Councilors are requesting to look at other alternatives including having a person as an operator. Referencing the report, he noted that the discussion of the cost of having an operator there is in excess of \$45,000 - \$46,000 per year. He explained that one of their recommendation is to replace the existing pay on foot equipment with the kiosk that the city currently has in the other parking garages so as to make it standardized throughout the city and also to just eliminate the problems and hassles that still occur in this parking garage. He noted that his recommendation is that they replace the system that is currently there with new kiosks that are in the other garages.

Councilor Coen moved to accept the report and ask that Administration incorporate the replacement of the existing pay on foot equipment with kiosks within the upcoming budget. The motion was duly seconded.

Councilor Nyhan reminded Council that this is the same recommendation that the ad-hoc Parking Committee had last year. He noted his support of Councilor Coen's motion.

Councilor Blanchard indicated that she will be voting against the motion noting that she prefers having an actual person attending to the garage.

Councilor St. Hilaire noted that he just wants to make sure that the kiosks are not identical to the ones on the street because those are linear and you have choices for ½ hour, 1 hour, and 2 hours. He asked if this machine is going to allow someone to select if they want to park all day or for four hours. Mayor Bouley replied that they can be programmed any way the city wishes and that they will be like the ones currently in the other garages.

Councilor DelloIacono noted that he knows that it was looked at taking the existing kiosks currently in the garage and placing them at the exit and asked that it be elaborated upon as to why this wasn't a good option. Parking Manager Dave Florence replied that in moving that equipment to the exit, what would be done to the current system is that people would have to park, get out and walk to the machine, process their ticket and then leave. He explained that they could add to their existing equipment a pay and lane device in which people can stay in their car and pay for their parking. He indicated that this range is about \$30,000 per lane and that the transaction takes a bit of time to complete and would create a stack up of vehicles in the garage. Councilor DelloIacono asked if it was a capacity issue at the exit that is really the biggest problem. Mr. Florence responded that stacking would occur to move up to the upper levels of the garage with the capacity that they currently have. Councilor DelloIacono indicated that the concern brought up by the community is that the benefit of the Capital Commons Garage is that they can park, forget it, walk away and pay what you have used. He stated that the concern has been that if somebody pays for two hours and end up at an establishment for four hours, they will receive a ticket.

Following additional Council discussion, Mayor Bouley noted that he wholeheartedly supports this, it removes the gates, removes the impediment of getting stuck in the garage,

and it works in the other garages. He noted that he would like to see this as a public hearing so that Council receives public input on this. He indicated that he believes that the motion is asking that the City Manager incorporate this within the budget so that if somebody didn't like it they could come during the budget process and be able to speak in opposition to what is being proposed. He noted that he hopes that when this is being done in the budget process it is going to be cost neutral. Councilor Coen confirmed that was the intent of his motion.

Councilor Coen's motion passed on a voice vote.

37. Report from the Deputy City Manager – Development on a license agreement for “The Draft” proposed balcony. (*Pulled from consent by Councilor Coen*)

Action: Councilor Coen indicated he wanted to be clear as to how many license agreements that the city is involved in and whether this is something that is unusual. He commented that this is a reflection of what is going on with the economy because not only is there major redevelopment going on but also this is a signal saying that investors and property owners are investing in their buildings indicating that there is something positive going on in Concord and seems to be a very good sign that it's not just large but also smaller developments. Mr. Aspell responded that the city does approximately six to eight of these a year and can be as simple as allowing someone to have a water line cross the street. He stated that the license allows the city to have some avenue of control to make sure that things work out the way they are supposed to work out and if the city ever wants to retract, they could.

Councilor Blanchard noted that she feels that this is an unusual request and was surprised that it was on the consent agenda. Councilor Blanchard moved to set this for a public hearing. Speaking on her motion, she indicated that she feels that there are a lot of ramifications: it's over a public sidewalk, is a place where people drink and is a second floor balcony type of deck. She feels that it deserves public input and discussion. Her motion was duly seconded.

Councilor Nyhan indicated that he had some concerns with this. He stated that this is before Council because they are looking for an easement or a permit to overhang the sidewalk. He has questions as to what this is going to look like noting that there is a sketch but that he doesn't know what the particulars are. He noted that there is an aesthetic appeal as they develop the south end of Main Street. He added that he has questions in regards as to what types of issues may arise having a balcony where it could be loud and the potential for objects being thrown off the balcony. He stated that he would like to see more information come back to the Council before approving this item tonight.

Councilor DelloIacono asked where this would put the city in terms of liability. He pointed out that it states that the city isn't liable but the city is granting a license and handing over the sidewalk. Deputy City Solicitor Jim Kennedy responded that the license agreement addresses all liability that may occur on the property. Councilor DelloIacono indicated that people usually go for the deeper pockets and is guessing that the city would have deeper pockets and would not be immune to litigation. Mr. Kennedy replied that the city is not immune to litigation. In terms of liability, the Mayor asked if the city would be immune from the particular item. Mr. Kennedy responded that the city does have that defense

indemnification built into the agreement which protects the city from any negligence or anything that may occur on that balcony. Because there is an indemnification agreement built into the agreement, the city would not be subject to liability.

Councilor Keach indicated that his position on this is that there are plenty of existing city ordinances and state laws that would regulate excessive noise, disruptive behavior and such that if there were any problems there is adequate statutes to address those issues. He stated that for many years the city has begged, enticed and otherwise encouraged people downtown to invest in their properties. He indicated that this is someone willing to make that investment and feels that Council needs to move forward with it.

Councilor St. Hilaire concurred with Councilor Keach explaining that the same questions could be posed to the other bars downtown that have people sitting outside on the sidewalks. He noted that he feels that it would be unusual to subject one business to a public hearing process for this agreement to occur since other agreements do not go through this process.

Councilor Shurtleff indicated that he feels that Councilor Nyhan brought up some good points and it is a major change to Concord's streetscape. He indicated that it would be nice if the public wanted to speak and share their thoughts on this structure. He stated that this structure is different for Concord and that he shares some concerns about public safety and will be voting on the motion.

Mayor Bouley stated that he will be voting against the motion explaining that he generally always supports public hearings but in this case, the city does issue these licenses regularly and he doesn't remember ever having public hearings on them. He noted that he does not feel that it is necessary for this item and doesn't feel that treating one differently than some of the others is a precedent that Council doesn't want to set in this point of time.

Councilor Blanchard's motion failed on a voice vote.

Mayor Bouley invited the owner to come before Council to answer some of the concerns of the Council.

Andy Sanborn, The Draft owner, explained that their average demographic is 35 to 60 years old and that there are some evenings in which it is younger. He stated that he wanted to try to create something that helps to make Concord what everyone says they want it to be which is a vibrant place where people can go out and enjoy lunch or an early evening dinner on a deck. He gave a brief explanation as to the aesthetics of the deck.

Councilor Nyhan noted his concern with the construction and with the aesthetics matching that area of downtown. He questioned whether he had worked with Mainstreet Concord on the design. Mr. Sanborn responded indicated that he has been having discussions about this deck for fourteen months and noted that he is a traditionalist and is not looking for any modern or stylistic presentations that may quickly become dated.

Referring to the schematic provided, Councilor Keach asked if the second floor existing brick structure will be removed and expose the upper level of Victorian house. Mr. Sanborn

responded yes explaining that they will be trying to keep that Victorian late 1800 to early 1900 look.

Councilor Blanchard inquired whether this was in any way a zoning issue. Mr. Aspell responded not that he is aware of explaining that everything is in conformance that needs to be done.

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

Adjournment

The time being 10:20 p.m., Councilor St. Hilaire moved to enter into a non-public meeting in accordance with RSA 91-A: 2, I (a) to discuss collective bargaining strategies. The motion was duly seconded and passed with no dissenting votes.

A true copy; I attest:

*Michelle Tiffany
Deputy City Clerk*