



**Non-public meeting with legal counsel in accordance with
RSA 91-A:2 I (b) to be held at 6:15 p.m.**

City Council Meeting
Minutes
February 11, 2013
City Council Chambers
7:00 p.m.

1. The Mayor called the meeting to order at 7:00 p.m.
2. Invocation by Pastor Joe Fisher, United Baptist Church.
3. Pledge of Allegiance.
4. Roll Call. Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady Sexton, Keach, Kretovic, McClure, Nyhan, Patten, St. Hilaire, Shurtleff and Werner were present.
5. Approval of the January 14, 2013 meeting minutes.

Action: Councilor McClure moved approval of the January 14, 2013 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

6. Agenda overview by the Mayor.

- Consent Agenda Items -

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

Action: Councilor St. Hilaire moved approval of the consent agenda with items 17, 20, 28 and 29 moved to the end of the agenda for discussion. The motion was duly seconded and passed with no dissenting votes. Councilor Kretovic abstained from voting on item 32 on the consent agenda.

Items Tabled for a March 11, 2013 Public Hearing

7. 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.
8. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing, and Parking; Section 18-1-9, Bus and Taxicab Stands, Schedule VII, Bus Stop – South Commercial Street/Constitution Ave; together with report from the Assistant City Planner.

9. Resolution appropriating the sum of \$1,735,000 including authorizing the issuance of bonds and notes for the Route 3 Corridor (North) Improvement Project – Phase 5 (Village Street, Penacook from the Boscawen Town Line to Stark Street) CIP #35; together with report from the City Engineer. (12-41) (1-38A;1-48)

From the City Manager

10. Positive Citizen Comments.
11. Council meeting date calendar.

Consent Reports

12. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$1,639.35 as provided for under the preauthorization granted by City Council.
13. Diminimus gifts and donations report from the Parks & Recreation Director requesting authorization to accept monetary gifts totaling \$3,878.15 as provided for under the preauthorization granted by City Council.
14. Concord Area Transit (CAT) quarterly progress and performance indicator reports from the Transportation Policy Advisory Committee (TPAC).
15. Report from the Traffic Operations Committee in response to a communication from Susan Ayer requesting consideration be given to improvements in pedestrian safety at the crosswalks on Loudon Road and Fort Eddy Road. (1Sus5)
16. Report from the Deputy City Manager – Development regarding the Overall Economic Development Performance (OEDP) Annual Report.
17. Semi-Annual Report of Contracted Solid Waste and Recycling Services from the General Services Director. (*Pulled from consent by Councilor McClure*)

Action: Item to be discussed at the end of the agenda.

18. Report from the City Treasurer recommending the adoption of a post-issuance compliance policy and procedures for tax-exempt obligations.
19. Report to Council on the FY2012 Comprehensive Annual Finance Report (CAFR) from the Assistant Finance Director.
20. Report from the Deputy City Manager – Finance on the recommendation from the Fiscal Policy Advisory Committee (FPAC) on the revised Fiscal Goals and new Fund Balance Policy. (*Pulled from consent by Councilor McClure*)

Action: Item to be discussed at the end of the agenda.

21. December Fiscal Year-to Date Financial Statements report from the Deputy City Manager – Finance.
22. Parking Committee report from the Deputy City Manager – Development recommending the City Manager be authorized to issue a RFQ for downtown marketing/communications to assist in the Downtown Complete Streets project.

Consent Resolutions

23. Resolution designating depositories for the City of Concord, New Hampshire for the Fiscal Year 2013; together with report from the City Treasurer.
24. Resolution relative to short term investment of excess funds.
25. Resolution adopting a cash management policy.
26. Resolution authorizing the City of Concord to request that the State of New Hampshire designate the Whitney Road corridor as an economic revitalization zone; together with report from the Deputy City Manager – Development.
27. Resolution authorizing the submittal of an application to the New Hampshire Housing Finance Authority for New Hampshire Community Planning Grant Funds to be utilized for the development of a new Penacook Village zoning district; together with report from the City Planner.
28. Resolution authorizing the City Manager or his designee to apply for unmatched grant funding through the New Hampshire Department of Safety Homeland Security Grants program for swift water rescue equipment; together with a report from the Fire Chief. ***(Pulled from consent by Councilor McClure)***

Action: Item to be discussed at the end of the agenda.

29. Resolution authorizing the City Manager or his designee to apply for unmatched grant funding through the New Hampshire Department of Safety for community emergency response teams; together with a report from the Fire Chief. ***(Pulled from consent by Councilor McClure)***

Action: Item to be discussed at the end of the agenda.

Consent Communications

30. Street closure request from the Concord Farmers Market Association requesting Capitol Street be closed to vehicular traffic on Saturdays, beginning June 1, 2013 through October 26, 2013 for the Concord Farmers Market.
31. Street closure request from InTown Concord for the 39th Annual Market Days Festival to be held Thursday, July 18, 2013 through Saturday, July 20, 2013.

Appointments

32. City Manager's proposed reappointments to the Zoning Board of Adjustment.
(*Nicholas Wallner, David Parker, James Monahan*)

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

33. **February 11, 2013 Public Hearings**

- A. Resolution repurposing \$150,000 from completed and unexpended City Hall roof project (CIP #65) to support additional improvements to the Green Street Community Center project (CIP #63); together with a report from the General Services Department. (1-8)

Action: City Manager Tom Aspell provided an overview.

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 14, Morals and Conduct; Article 14-2; Miscellaneous Police Regulations, Aggressive Panhandling; together with report from the Public Safety Board. (1-9) (***Public testimony received***)

Action: City Solicitor Jim Kennedy explained that a proposed amendment to the original ordinance was distributed to Council this evening. He asked that Council have a public hearing on this in conjunction with the ordinance that was provided last month. He explained that the revised one is a least restrictive ordinance than the one previously provided noting that this amendment is contained within the proposed aggressive panhandling ordinance but it more specifically addresses, for this Council's consideration, the panhandling of an individual from the occupant of a motor vehicle. He indicated that staff had various conversations in the city regarding panhandling and believes that this is a compromise or first step in addressing the panhandling issue in the City of Concord. He requested that Council make a motion to include this in the public hearing tonight. Police Chief John Duval indicated that in the last several months they have seen a dramatic increase of individuals soliciting, particularly in high volume areas at intersections. He noted that what's concerning for them in public safety is the location and the distracting nature of those activities. He stated that he feels that this amended draft ordinance will give them the tools that they need to address the safety not only for the motorists but for those soliciting.

Mayor Bouley stated that the advertised public hearing is on what Council received last month but staff is proposing a draft change that is less restrictive so they will be having one public hearing this evening. The Mayor asked the City Clerk to read the amended ordinance.

City Clerk Janice Bonenfant read the amended ordinance: "an ordinance amending the Code of Ordinances, Title I, General Code; Chapter 14, Morals and Conduct, specific to panhandling. 14-2-9 Intent of Ordinance, to provide for the free flow of vehicular traffic

on roadways and other public places in the city. The Council finds that solicitation of any occupant of a motor vehicle may interfere with the free and safe flow of vehicular traffic. By this ordinance, the Council intends to promote the health, Safety and welfare of the citizens traveling by vehicle in the city. 14-2-9.1 Definitions defines solicit/solicitation as the spoken, written, or printed word or such other acts or bodily gestures as are conducted in furtherance of the purposes of immediately obtaining money or any other thing of value; defines public place as any roadway, including a bridge, tunnel, driveway, parking lot or parking garage which is owned, leased, operated or controlled by or on behalf of the city. 14-2-9.2 Solicitation from any occupant of a motor vehicle prohibited, no person shall knowingly or recklessly solicit from any occupant of a motor vehicle that is on a roadway or other public place. 14-2-9.3 Penalty, a person found in violation of this section shall be guilty of a violation and may be fined not more than \$500.00. 14-9-9.4 Severability, if any provision of this section is declared invalid or unconstitutional for any reason, the remaining provisions shall be severable and shall continue in full force and effect. If passed, this ordinance shall take effect immediately.”

Mayor Bouley opened the public hearing.

Public Testimony

David Keller, Concord Coalition to End Homelessness Co-Chair, indicated that their real problem as a community is not that people are panhandling; the real problem is that there isn't more effective ways to support people who are this desperate. He stated that there are real solutions but they require a concerted effort of a whole community working together over time to embrace them. He indicated that the coalition supports a more carefully worded ordinance because they recognize the public safety problems provoked by aggressive panhandling. He noted that what they really support is a solution to the desperation that moves a few people to use this method to get a little money. He read the letter approved by the board of directors of the Concord Coalition to End Homelessness. In regards to the original proposed ordinance, they are supportive of a reasonable response to safety concerns and believe that the anti-panhandling ordinance, as originally written, is overly broad and subjective and they are concerned that it could lead to discrimination against people simply for being poor. They support the efforts to craft a much narrower ordinance, one which specifically targets behavior likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession. They also support an attempt to prevent the "knowing or reckless disruption of motor vehicle safety. (Entire letter on file at the City Clerk's Office)

Councilor Coen questioned as to how Mr. Keller received the backgrounds of the homeless individuals that he referenced. He further questioned whether they are indeed homeless, how many are homeless, and how many are addicted to drugs and alcohol. Mr. Keller responded that his point was not to assume that everyone that panhandles is homeless and that he is willing to assume that everyone who panhandles is desperate.

Councilor Werner asked whether the less restrictive ordinance meets Mr. Keller's support. Mr. Keller responded that there has been some conversations in the seats about

that and the feeling, that he is hearing without speaking officially for the coalition, is that it goes a very long way because it specifically addresses the motor vehicle issue which he felt from the very beginning was a public safety concern. He stated that the problems they had with what they felt were the subjective aspects of the original ordinance would make it very hard to enforce; making it not just a burden on panhandlers but also on the entire process including law enforcement, corrections, the courts. He stated that he feels that the revised ordinance is more clear and direct to the issue of motor vehicle safety and feels that this goes a long way in improving the ordinance.

Devon Chaffee, NH Civil Liberties Union Executive Director, thanked Police Chief Duval and Solicitor Kennedy for all the work on the proposed amendment. She stated that the amendment doesn't resolve the concerns of the NH Civil Liberties Union and doesn't focus on "aggressive" panhandling only but preserves the part of the original ordinance that prohibits any solicitation of a motor vehicle including individuals who are simply soliciting from the sidewalk. She noted that the City of Concord and the State of NH have a strong interest in protecting the safety of their citizens and this is why the state has strong laws that prohibit individuals from interfering with traffic and from engaging in threatening behavior in public spaces. She indicated that the draft anti-panhandling ordinance is broadly drafted and prohibits expression that poses no danger to drivers or to pedestrians and that the ordinance unfairly targets individuals who are asking for assistance based on the content of their speech; it targets only people that are asking for a handout not people who are asking for the time or directions. Ms. Chaffee stated that charitable solicitation is a form of expression that is protected by the United States Constitution and many federal courts have found that this free speech protection applies to both individuals soliciting funds for themselves as well as to charitable organizations. She indicated that the proposed panhandling ordinance places broad restrictions on the ability of individuals to exercise their free speech right to make charitable solicitations in public spaces; it would prohibit individuals from soliciting people in cars or standing on a sidewalk even when that solicitation does not interfere with traffic. She cited a case in Redondo, California and cited several RSA's in the State of NH. She stated that if the Council is intent on passing some solicitation restriction, she strongly urged them to narrow the prohibition on sidewalk solicitation of motor vehicles so that it is less restrictive of speech and more narrowly tailored to the purpose of promoting traffic. She noted that it is her opinion that the amendment that has been proposed tonight is not narrowly tailored and is far too restrictive of protective speech. (Entire public testimony on file at the City Clerk's Office)

Councilor Blanchard inquired whether the definition of panhandling includes lemonade stands and advertisement of carwashes by students. Ms. Chaffee responded that it does the way she understands that solicitation is defined in both the originally proposed ordinance as well as the proposed amendment. She stated that in the proposed amendment it's the "spoken, written or printed word or such other acts or bodily gestures as are conducted in the furtherance of the purposes of immediately obtaining money or any other thing of value". She stated that it's her opinion that those types of solicitations would be included under the definition.

Councilor Werner asked whether it is the position of their organization that existing laws are adequate and that the ordinances before Council this evening are unnecessary. Ms. Chaffee responded that she doesn't know whether they have a position on whether further ordinances are necessary to address the issue. She stated that they would be willing to consider alternative language that is narrowly tailored to address the public safety issue that is not so broadly framed as to reach these other types of conducts. Councilor Werner asked how she would approach a very narrow definition. She replied that she would start by looking at what NH law already prohibits and to have a conversation as to what is the conduct that is creating the problem.

Councilor Kretovic asked whether it could also be argued that people standing on the sidewalk with signs for carwashes and advertisements for businesses is also a public safety hazard because there are instances in which they are distracting and pose a safety hazard. She stated that while they have talked extensively about excessive panhandling they could in fact be limiting something that they also would have a concern in regard to. Ms. Chaffee noted that what this highlights is that this doesn't prohibit people from holding up signs on the side of the road which is part of the problem; the regulation is based solely on the content of that message and isn't what is called a content neutral approach to regulation. Councilor Kretovic questioned whether it would not be the difference of holding up a sign that says "will work for food" or a person holding up a sign that says "will work for food" and tapping on the side of a window of a car. Ms. Chaffee indicated that tapping on a window is not speech and is clearly conduct and depending on how it is written, this would be a restriction that they wouldn't have a concern with.

Councilor Keach questioned in regards to holding up a campaign sign. He noted that he does see this as a first amendment question and indicated that he is not particularly sympathetic with folks holding up the signs because he feels that there are a lot of resources in this community. He stated that he does worry about the restrictions and the first amendment.

Elliott Berry, NH Legal Assistance attorney, stated that a lot of other cities and towns are watching what the Council is doing here this evening and that they need to be really careful because it could cause a lot of havoc for a lot of poor and homeless people elsewhere. He stated that he feels that the problem with the initial ordinance is that, regardless of what Council's intention is, it punishes or threatens to punish too many innocent behaviors. He noted that he knows that it purports to deal with aggressive panhandling but no matter how meek or nonthreatening a person is, they could be prosecuted under the proposed ordinance; this clearly could apply to Girl Scouts and the Salvation Army. He indicated that one of the other major problems is that because of how broadly this could be enforced, it invests in a police officer an enormous amount of discretion about who or who they are not going to prosecute. He noted concerns with the ability of the poor and homeless appearing for court dates or being able to afford any fines. He stated that the proposed ordinance may be comforting to a lot of people who have asked for this ordinance but feels that it just adds crushing burdens to those subclasses of the panhandling community who are poor and homeless. He noted that he feels that the proposed amendment is a vast improvement and with a little more work it

could probably even meet constitutional requirements and urged Council to keep working on this.

Councilor Nyhan noted that he has heard that the ordinance that is being proposed this evening does not solve the problem or meet the expectations and that Council is wrestling with the issue of how do they protect those individuals who are offended and are threatened by solicitations and questioned as to what is Mr. Berry's answer is to this question. Mr. Berry responded that the key is to focus on behavior in which a reasonable person would feel that they are threatened with imminent risk of either assault or a crime against their property. Councilor Nyhan questioned in regards to those individuals who are threatened by the signs themselves, who don't like the words and don't like the message and who don't like to be asked for money or don't want to be approached. Mr. Berry responded that he understands the concerns but it is the price of freedom of speech. He thinks, except to the extent that holding signs does create an imminent threat to health and safety by virtue of interfering with motorists, the city's hands are tied by the Constitution.

Kevin Bloom, Concord resident, indicated that the problem that he has with the proposed ordinance is that he feels that it criminalizes speech. He noted his concerns with the fines associated with this.

Roy Schweiker, Concord resident, noted that he feels that they need to look at behavior rather than content. He stated that his feeling about this is that the Council needs to prohibit soliciting from people in active travel lanes. He noted his disagreement as to what a reasonable person is noting that consideration needs to be taken that there are categories of reasonable persons; one person may feel that someone is threatening and another bigger person may not feel as threatened by the same person. There cannot be one standard for what behavior is threatening, it has to be considered within the context of the person who's being solicited and the solicitor should take that into consideration. He referenced the process for buskers within the city in which they can only play instruments in four locations and have to sign up to do so. He questioned whether this could be a solution to the panhandling problem by identifying some safe locations in which people could panhandle. He added that if a panhandler is violating an ordinance he feels that law enforcement or social service agencies could inform the panhandler to move to another location and distribute to them a list of agencies that could help them.

David Frydman, Concord resident, noted that the amendment is much narrower and agrees with some of the other speakers as to what should be targeted is behavior and not speech and stated that public safety is clearly an important issue for any community. He indicated that he does have concerns with the proposed revised ordinance noting that he feels that it is quite broad. He noted that he respects the fact that Council is attempting to find a way to ensure public safety on the roadways and feels that it's best to do so based upon behavior.

Maggie Fogarty, Dover resident and employee within Concord, expressed her gratitude towards the staff for how they have listened to their concerns. She explained that the Concord Coalition on Homelessness hasn't seen the revised amendment or had any

discussions about it collectively so she cannot speak on their behalf but as somebody that has been involved in several of the conversations she wanted to acknowledge the great reach towards them and their concerns. She noted that they are very eager to continue to engage with the city fully in the upcoming plan to end homelessness which will address a number of the complex elements of this particular issue.

Councilor Coen questioned the direction that the committee may be going to help with the panhandling in the city. Ms. Fogarty responded that she imagines that with the individuals who comprise the steering committee and the stakeholders engagements that are planned, they will look at how to meet the unmet needs for shelter, for rental assistance, for security deposits, for mental healthcare, for substance abuse treatment so that the desperate needs that people have are visibly expressed in public places because those needs are being met.

Carl Soderstrom, Concord resident, noted that he has concerns with the proposed ordinance including the revised one. He explained that people will tend to gain their livelihood in the most peaceful fashion that they can and if they are deprived of a method of gaining their livelihood then they turn to options which are less peaceful; turning to options that are more violent.

Referencing earlier public testimony made, Councilor Nyhan asked what the thoughts are to having designated places to panhandle. Mr. Soderstrom replied that he has no thoughts to that at this time because he has not considered this option.

Carol Moore, Concord resident, indicated that she wants to be sure that the people who are panhandling and are mentally ill is a little more mentioned than it has been. She stated that many people go hungry because many people are too ill or too disabled, physically or mentally, to find their way to the best resources that the community has created. She feels that many of the people who behave in ways that are objectionable to us are out of it enough because they are mentally ill that they are not even aware of how distracting or inappropriate they are. She emphasized that mental illness is as an important issue to address as homelessness.

Councilor Keach questioned as to how to get information to the individuals that are hungry, letting them know that there are resources that exist. Ms. Moore responded that if they have no place to get treatment it doesn't matter how many places there are for resources because they are not going to find their way there.

Don Jewell, Concord resident, indicated that he questioned some of the individuals that are out doing this including: how much money they get in a day; what they do with the money; where do they eat; where do they get care and where do they sleep. He stated that some of them are disabled and can't work; others can't find work because they don't have documentation required; some stay at the First Congregational Church at night; they can shower at the YMCA from 7 to 8; can eat at the Friendly Kitchen. He noted that the money that they collect is for spending money and some spend it on tobacco, alcohol, at the laundromat, and other personal items. He agreed that vehicles having to stop to give

individuals money at the entrances and exits is a disruption to the flow of traffic and suggested they stand in the large parking lots.

Referencing written testimony received, Councilor Nyhan indicated that the correspondence states that there is an organized “ring” to solicit donations from Concord residents. He questioned whether Mr. Jewell came in contact with any such individuals. Mr. Jewell responded no and that he didn’t get any sense of this.

Kevin Curdie, Concord resident, noted his concerns with individuals panhandling at certain locations such as intersections because of the potential for accidents. He stated that, this evening, he is getting the impression that everyone who panhandles is homeless but there are a number of individuals that he knows that aren’t homeless and wishes that this wouldn’t be looked upon as something that just homeless individuals incur. He noted that he doesn’t appreciate walking downtown and having individuals asking him for money and would like to just walk anywhere without having someone asking him for money. He added that he hopes something can be done to ensure safety, not just for motor vehicle traffic, but the individuals that do it.

David, homeless individual, noted that before he became homeless he had an idea in his mind of what homelessness was and now has discovered a whole different view of homelessness. He stated that he feels that part of the issues here is the stigma involved in two words: homeless and panhandling. He indicated that when one talks about panhandling there is a vision of bums asking for change; it’s a word in itself that brings negativity and visions of wrongdoing and making people uneasy. He noted to the Council that he is grateful for all the resources available in Concord. He said that it sounds like all of the issues that people worry about seem to be already covered by existing laws.

Councilor Nyhan clarified that the Councilors do not confuse the issue of homelessness and panhandling and that they do understand the difference.

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

- C. Ordinance amending the Code of Ordinances, Title I, General Code, Chapter 15, Licensing and Regulation of Businesses, Trades and Occupations, Article 15-8, Peddlers, Solicitors, Section 15-8-4.1, Registration of Solicitors – Requirements; together with report from the Legal Department in response to a communication from Pinnacle Security requesting the City of Concord repeal/modify existing ordinances prohibiting door to door solicitation. (7-9) (10-10) (11-37C; 11-40) *(Ordinance referred to the Public Safety Advisory Committee and the Legal Department for further review at the November 13, 2012 Council meeting)(Revised ordinance submitted; together with report from the Public Safety Board)(1-10)*

Action: There being no objection from the Council, the City Clerk read the titles for both items C and D.

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

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

- D. 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, Solicitation Photo Identification Badge. (1-11)

Action: The public hearing for this item was taken with public hearing item C.

- E. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing, and Parking; Section 18-1-8 Parking Time limited in Designated Spaces, North State (West side); together with report from the Parking Manager. (1-12)

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.

- F. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 29.2, Public Capital Facilities Impact Fees Ordinance; Section 29.2-1-2, Assessment and Collection; together with report from the City Planner. (1-13)

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.

- G. Resolution amending the official map so as to establish mapped lines of a future street for an extension of Whitney Road southerly to Sewalls Falls Road; together with report from the Assistant City Planner. (1-14)

Action: City Manager Tom Aspell provided a brief overview.

Councilor McClure pointed out that the vote at the Planning Board was 5 to 1 and asked for an elaboration on the concerns of the one person. Steve Henninger, Planning, responded that the one dissenting vote was in regards to the potential for the Merrimack River for eroding away additional areas of the bluff and ultimately threatening the potential roadway section. Councilor McClure noted that she is aware that this is a very environmentally sensitive area very close to the river and questioned as to what are the mitigation measures. Mr. Henninger replied that during the site planning and permitting for the resource recovery facility, they developed a surveyed engineered corridor that would be well set back from the river bluff. He noted that what they did run into with the bluff was where the existing crossing is which went through the entire permitting process for reconstruction of that crossing as well as the culvert for the brook. He stated that they are confident that they can successfully build the extension of Whitney Road. In terms of the alignment, Councilor McClure asked why the proposed road couldn't stay away from

the river on that northern section. Mr. Henninger responded because of where the existing road and utility lines are, the existing crossing of the brook is close to the river as well as the existing water line; there is a relatively narrow area between the brook and the river that this road follows right down through the middle.

Mayor Bouley opened the public hearing.

Public Testimony

Sean Winn, Operation Manager at Wheelabrator, Concord, indicated that they have a water line and utility line that runs through here and wants to ensure that easements are properly done for this.

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

- H. Resolution amending the official map so as to establish mapped lines of a future street for an extension of Old Suncook Road southerly from Manchester Street to Garvins Falls Road, and an extension of Integra Drive westerly to the proposed extension of Old Suncook Road; together with report from the Assistant City Planner. (1-15)

Action: City Manager Tom Aspell provided a brief overview.

Mayor Bouley opened the public hearing.

Public Testimony

Rupert Dance, Manchester Street property owner-Freedom Cycle, noted his concern that this will have a major impact on his property the way this road is being conceived. His first concern is the layout itself from a safety point of view and the impact on the facility itself because the road comes very close to his building. He requested that the road comes in straighter. One of his other concerns is that it isolates a whole piece of property that cannot be used. He stated that the proposed road is very wide and would take a substantial piece of his property; decreasing the value of his property.

Councilor St. Hilaire asked if Mr. Dance owned the two buildings, the larger one and the smaller one on the other side of the proposed road. Mr. Dance responded that he did not own the small building stating that there is a triangular piece of land there that's been isolated and made unusable. He stated that the whole property is his land and the road is bifurcating his land. Councilor St. Hilaire stated that they are not taking it by eminent domain. Mr. Dance explained that the only way that he was able to build on that property was that he had to grant that right of way. City Manager Tom Aspell questioned whether Mr. Dance was stating that he wanted that back. Mr. Dance noted that he understands the city's desire to have it but he is asking them to consider straightening the road to avoid that "jog" so that it doesn't isolate that land. Mr. Aspell explained that when it came time for the approval of his site plan, the Planning Board asked him to leave the right of way for the future opening up and he had agreed, at that time, to do that. Mr. Dance

responded that they didn't ask. Mr. Aspell clarified that they did ask. Mr. Dance commented that he is asking that Engineering consider it.

Councilor Blanchard asked whether Mr. Dance had any idea when he constructed the buildings of where the road was going to intersect the property. Mr. Dance indicated that he was told that in order to build on this property that he had to grant some right of way. He stated that he was not aware that the final layout of it would be that close to the building and at the time it was indicated to him that the road would come straight and parallel to Old Suncook Road.

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

- I. Resolution amending the official map so as to establish the mapped lines of a future street for a new street from the intersection of Storrs and Theatre Streets southerly to Langdon Avenue; together with report from the Assistant City Planner. (1-16)

Action: City Manager Tom Aspell provided a brief overview.

Mayor Bouley opened the public hearing.

Public Testimony

Arnold Cohen noted that he feels that there is a mistake on the map in which it indicates that 26-1-5 is his property and pointed out that it's Steenbeke's property. He stated that he is by Gas Street. He indicated that others are losing right of ways but he is the only one in which the city is taking out and asked if the city could go around his property. He stated that he has land with a railroad building on it in which he has done work to restore it and doesn't think that it's fair that the city is condemning it now and he will not have any rights to rebuild or do anything with it noting that he feels that the city should wait until they are ready to take it and then negotiate with him when the road is going to be put in.

Mayor Bouley asked whether anyone from the city has told Mr. Cohen that the city was going to take his building. Mr. Cohen confirmed yes.

Councilor Keach questioned the current use of the property. Mr. Cohen responded that he is using it for storage purposes and to work on some of his vehicles. Councilor Keach asked if there is any reason that Mr. Cohen thinks that if the city ever did construct that road that he wouldn't receive the fair value compensation for that property.

Mayor Bouley asked whether Mr. Cohen attended the December 19th Planning Board public hearing. Mr. Cohen confirmed that he did.

Councilor Coen inquired as to how long ago Mr. Cohen purchased the property. Mr. Cohen responded that he believes it was seven years ago.

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

- J. Resolution amending the official map so as to eliminate the existing remnants of mapped lines of future streets located between Christian Avenue, Ormond Street and East Side Drive; together with report from the Assistant City Planner. (1-17)

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.

- K. Resolution amending the official map so as to eliminate the existing remnants of mapped lines of future streets located between Old Turnpike Road, Manchester Street, Airport Road and Terrill Park Drive; together with report from the Assistant City Planner. (1-18)

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.

- L. Resolution amending the official map so as to eliminate the mapped lines of future streets for the extension of Brookside Drive and Bow Street; together with report from the Assistant City Planner. (1-19)

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.

- M. Amended Hall Street Wastewater Plant License with Concord Power and Steam. (1Sus3)

Action: City Solicitor Jim Kennedy provided a brief overview.

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

- N. Downtown Complete Streets Improvement Project (CIP#460). (1Sus4) (*Supplemental report submitted*) (***Supplemental report; together with public testimony from Robert Baker submitted***)

Action: City Manager Tom Aspell provided a brief overview.

City Engineer Ed Roberge provided an overview of his report and noted that there are three actions that he is looking for tonight: to accept the preliminary design layout looking at equally wide sidewalks – the layout includes street configuration and the parking scheme that is proposed; accept the preliminary design layout including the design layout of parking and the streetscape elements for the southern section of the street; to accept the closure of Phenix Avenue.

Gene McCarty, McFarland-Johnson Project Manager, described the existing typical section of Main Street; a four lane section with angled parking on both sides and the sidewalks on either side are eleven to twelve feet and a problematic double step curb that's on the west side that takes up about two feet. He noted that the proposed section is the balanced sidewalk approach which they are showing as minimum 18 ½ foot sidewalks on both sides of the street; a super two lane configuration which consists of two 15 foot lanes which would be shared between vehicles and bicycles; a six foot flush median; parallel parking primarily on the west side; angled parking primarily on the east side. He stated that they have to split the parking this way in order to achieve the goal of those 18 foot wide sidewalks. Mr. McCarty indicated that that this is pretty much the typical section that was presented to the Council by the PAC, this was their recommendation, but some of the dimensions have been refined a little bit. He highlighted some areas on the slide presentation to the Council.

Jonathan Law, Carol R. Johnson Associates, highlighted additional slides pointing out extended bump outs; a water feature; planter with a granite seat and pavers in front of the State House; signage; moving the clock tower from blocking the entrance into Eagle Square; potential locations for public art; gathering areas for people; crosswalks with colored pavers

Mr. McCarty added that, overall from the whole project, a total of eighteen parking spaces would be lost; those eighteen spaces are in that North Main Street section. He noted that within the design they have accommodated loading zones and the bus stops.

Mr. Law added that they also provided accommodation for handicapped accessible parking which is currently not out there today.

Referencing costs, Mr. McCarty indicated that they broke it down into four main elements: road costs; lighting costs; snow melt costs; amenities/landscaping costs. He said that everything presented on the surface level, everything that is on that plan right now, from a construction cost is a little over \$6 million which is within the budgeted amount. He noted that if they were just looking at the current budget and what's left, the \$840,000, based upon their estimate, would allow the city to provide the snow melt on North Main Street from Pleasant Street to the Loudon Road intersection on the sidewalk alone. He stated that if the Council wanted to go for the full amount and look at the entire roadway from Storrs to Loudon Road that will put them at an \$11 million cost.

Councilor St. Hilaire questioned whether there was an estimate for the snow melt, full road from Pleasant Street to Loudon Road. Mr. McCarty responded that the amount would be \$2.3 million for that stretch.

City Manager Tom Aspell questioned the cost of a snow melt system on just the sidewalks, both sides, from Storrs Street to Loudon Road. Mr. McCarty replied that the amount would be \$1.7 million.

Councilor St. Hilaire asked whether Council could receive a grid breaking down the sections of the costs.

Councilor Blanchard questioned whether there was a model of another city that has done their Main Street with two travel lanes; asking where they came up with the two travel lanes. Mr. McCarty responded that this was developed from the advisory committee. Councilor Blanchard inquired whether there are any plans for a public restroom. Mr. McCarty responded that they did not include one within the plans and that the costs did not include one.

Mayor Bouley opened the public hearing.

Public Testimony

Jim Rosenburg, Shaheen & Gordon Law Firm Vice President, noted that they have a concern with the plan for the closing of Phenix Avenue which goes to Low Avenue and to the back of their building in which they put a fairly significant investment into within the past few years to beautify that building and it is where all of their staff parks. He stated that, at present, along the current Phenix Avenue delivery trucks queue up here and they are concerned as to where those trucks are going to go if Phenix Avenue is closed. He indicated that they feel that, within the plan, there is no place for the delivery trucks to go noting that they may end up blocking access to Low Avenue which would create a safety issue.

Finis Williams, Attorney at 15 North Main Street, noted his concern of getting rid of the angled parking on the west side of North Main Street, indicating that with going with parallel parking they will lose eight or nine spaces in front of his office building. He noted that the other concern that he has with parallel parking is that it's harder to parallel park than it is to angle park and therefore may slow down traffic on North Main Street.

Roy Schweiker, Concord resident, noted his support of heating both the streets and the sidewalks from Loudon Road to Theatre Street. He noted that he feels that the city needs to take advantage of all the parking spaces they have and put diagonal parking on both sides. He noted that the city should leave Phenix Avenue as it is, don't spend any money on it and leave it outside the project limits at this time.

Byron Champlin, Chamber's Creative Concord Chair, joined by Tim Sink, Chamber of Commerce, noted that they support the broad outline of this design and feel that it's a positive step forward for the city and will significantly contribute to the vibrancy of the downtown. Mr. Champlin stated that they have offered to work with the city staff as they fine tune the aesthetics of the project and to provide feedback on the artistic and aesthetic aspects of it.

Andrew Hatch, Lotion and Potions, pointed out that parallel parking exists on Main Street and it is rare to see a parking space and rare to see a parking problem in terms of somebody getting in and out of that area. He thanked everybody involved in this and the effort and hours that have been put into debate. He noted that they all have to be realistic in the fact that they can't all get what they want. He pointed out that parking in the garage is underutilized and feels that as long as Council has gotten the message loud and clear that signage to parking, encouragement to parking, encouragement for pedestrians to think differently about the downtown will make this a successful endeavor.

Councilor Nyhan noted that it sounds like Mr. Hatch is supportive of this project and questioned as to what his primary apprehension is. Mr. Hatch noted that it's a fear of losing customers during the construction of this project.

Referencing the snow melt costs, Kevin Curdie questioned whether this is the cost to install it or to operate it. Mayor Bouley indicated that Council just received the costs this evening also.

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

February 11, 2013 Public Hearing Action

34. Resolution repurposing \$150,000 from completed and unexpended City Hall roof project (CIP #65) to support additional improvements to the Green Street Community Center project (CIP #63); together with a report from the General Services Department. (1-8)

Action: Councilor Nyhan moved approval. The motion was duly seconded and passed 15 to 0 on a roll call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady Sexton, Keach, Kretovic, McClure, Nyhan, Patten, St. Hilaire, Shurtleff and Werner voting yes.

35. Ordinance amending the Code of Ordinances, Title I, General Code, Chapter 14, Morals and Conduct; Article 14-2; Miscellaneous Police Regulations, Aggressive Panhandling; together with report from the Public Safety Board. (1-9) (*Public testimony received*)

Action: Councilor Shurtleff moved to send this item back to the City Solicitor to work on the issue panhandling. The motion was duly seconded.

Councilor Coen noted that if Council passed the proposed ordinance this evening at least they would be making steps towards the issue of panhandling and it would be a tool to be used in conjunction with all the other activities that agencies in the city would go forward with. He noted that his concern if they refer it back is that it will take months before coming back to Council. He noted that he would be in favor of passing an ordinance this evening.

Councilor Grady Sexton asked what Council would be asking the City Solicitor to do if they refer it back. Mayor Bouley noted that his goal would be to tighten up the language, to start the balance in which they have heard over the course of several months, as well as tonight, which is to not trample on anyone's first amendment rights and that they don't want to prohibit anybody from doing anything that they are constitutionally allowed to do. He stated that it's important to find a balance between the public safety issue as well as the rights of the individual.

Councilor Kretovic noted her agreement with the Mayor. She noted that the only concern that she had that is lingering is the number of organizations that came before the Council with presumptions on who the panhandlers are without a real census of who these people are. She put these organizations to the challenge to go out and find out who these people are, where they are from, etc.

Councilor Shurtleff asked whether it would be possible to set this issue down for a hearing next month. Mayor Bouley indicated that it is possible but asked to give a little bit of leeway to the Solicitor because it will be important to bring all the right interested parties together and is not sure whether this could be done in 30 days.

Councilor Bouchard hoped, that if the ordinance is referred back, that staff reaches out to the Department of Safety to find out if there are laws that the State Police should be enforcing on the on and off ramps that have not been enforced.

Councilor Patten noted his agreement with Councilor Bouchard's statement. He noted that he has filed a bill in the state about their portion of these off ramps and the panhandlers.

Mayor Bouley asked Councilor Patten to inform the City Solicitor what the bill is that he put in for.

Councilor Grady Sexton noted that she hopes that the City Solicitor would be able to take any drafts and run them by the groups that came forth this evening.

Councilor Shurtleff's motion passed on a voice vote.

36. Ordinance amending the Code of Ordinances, Title I, General Code, Chapter 15, Licensing and Regulation of Businesses, Trades and Occupations, Article 15-8, Peddlers, Solicitors, Section 15-8-4.1, Registration of Solicitors – Requirements; together with report from the Legal Department in response to a communication from Pinnacle Security requesting the City of Concord repeal/modify existing ordinances prohibiting door to door solicitation. (7-9) (10-10) (11-37C; 11-40) (*Ordinance referred to the Public Safety Advisory Committee and the Legal Department for further review at the November 13, 2012 Council meeting*)(*Revised ordinance submitted; together with report from the Public Safety Board*)(1-10)

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

37. 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, Solicitation Photo Identification Badge. (1-11)

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

38. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing, and Parking; Section 18-1-8 Parking Time limited in Designated Spaces, North State (West side); together with report from the Parking Manager. (1-12)

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

39. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 29.2, Public Capital Facilities Impact Fees Ordinance; Section 29.2-1-2, Assessment and Collection; together with report from the City Planner. (1-13)

Action: Councilor Grady Sexton moved approval. The motion was duly seconded and passed on a voice vote.

40. Resolution amending the official map so as to establish mapped lines of a future street for an extension of Whitney Road southerly to Sewalls Falls Road; together with report from the Assistant City Planner. (1-14)

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

41. Resolution amending the official map so as to establish mapped lines of a future street for an extension of Old Suncook Road southerly from Manchester Street to Garvins Falls Road, and an extension of Integra Drive westerly to the proposed extension of Old Suncook Road; together with report from the Assistant City Planner. (1-15)

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

Councilor Blanchard understands that Mr. Dance did agree to the easement for the road and questioned how close the city could come to a building to lay out a road asking whether there are setbacks. Steve Henninger, Planning Department, responded that in this instance the Planning Board reviewed and approved the site plan for Freedom Cycle and as part of that site plan, there is an area reserved for a future road on the site plan but there was no easement. He stated that the road will not impact the storage building and that the layout of the site plan was such that the access and circulation to the site would remain unmodified.

Councilor Patten questioned whether there was any way that the road could go straight. Mr. Henninger responded that it would require the taking of the Beefside Restaurant.

The motion to approve passed with no dissenting votes.

42. Resolution amending the official map so as to establish the mapped lines of a future street for a new street from the intersection of Storrs and Theatre Streets southerly to Langdon Avenue; together with report from the Assistant City Planner. (1-16)

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

Councilor St. Hilaire moved to table this item. The motion was duly seconded.

Councilor Bouchard noted that she feels that the property owner brought up some valid concerns and feels that there are questions and issues to be addressed.

Councilor Nyhan indicated his agreement with Councilors St. Hilaire and Bouchard noting that one of the things that he heard from Mr. Cohen is confusion or misunderstanding as to what exactly this proposed road would do. He asked whether someone could reach out to Mr. Cohen and explain to him as to what exactly is being proposed and what impact it would have relative to his assessed value of his property and whether potential property acquisitions would take place.

Councilor St. Hilaire's motion to table passed on a voice vote.

43. Resolution amending the official map so as to eliminate the existing remnants of mapped lines of future streets located between Christian Avenue, Ormond Street and East Side Drive; together with report from the Assistant City Planner. (1-17)

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

44. Resolution amending the official map so as to eliminate the existing remnants of mapped lines of future streets located between Old Turnpike Road, Manchester Street, Airport Road and Terrill Park Drive; together with report from the Assistant City Planner. (1-18)

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

45. Resolution amending the official map so as to eliminate the mapped lines of future streets for the extension of Brookside Drive and Bow Street; together with report from the Assistant City Planner. (1-19)

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

46. Amended Hall Street Wastewater Plant License with Concord Power and Steam. (1Sus3)

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

47. Downtown Complete Streets Improvement Project (CIP#460). (1Sus4) (*Supplemental report; together with public testimony from Robert Baker submitted*)

Action: Councilor St. Hilaire moved to accept the report. The motion was duly seconded.

Councilor Kretovic noted that the first question she has relative to what staff is asking Council to accept as to preliminary design and street layout and whether this means they would be accepting the changes that they had incorporated in this design. City Engineer Ed Roberge responded that what they have presented tonight is the layout that allows them to advance the preliminary design. Relative to the bus stops, Councilor Kretovic indicated that according to this design they have removed the bus stop at the corner of Main Street and Pleasant Street and they have removed the bus stop in front of the Kennedy building. She

noted that both are popular bus stops and questioned where they have replaced these. Mr. Roberge indicated that it's important to note that while that detail may not be shown on the plans, through their discussions and their coordination with CAT and a TPAC advisory committee, making sure that those stops remain in the final design effort will be important. He stated that they have asked CAT if they could create new efficiencies or new locations and that process is still going on. Mr. Roberge added that staff recognizes the value of the Kennedy building stop and has been debating on the stop at Pleasant and Main. He stated that they are trying to maintain the general number and the general location of those stops today.

Councilor McClure noted that she wants to make sure she understands the so-called building zone in which the balanced sidewalk is eighteen feet on either side and questioned whether some buildings go in a bit and some buildings go out and so it can't be used as a straight eighteen feet all the way on either side. She inquired as to what is wrong with having variable width sidewalks. Mr. Law responded that they are variable widths and that is just a minimum width that they developed in the design.

Councilor DelloIacono asked whether the number of crosswalks had increased. Mr. Roberge responded that one crosswalk was reduced.

Councilor Coen noted that he feels that there would be a tremendous savings on maintenance cost in plowing for the city if the street and sidewalks were heated. He noted that the question would be what they would be saving by not having to plow that section of Main Street. Mr. Roberge noted that staff can detail that a little bit better noting that, if he correctly recalls in the project advisory committee deliberations, they had talked specifically about snow melt and how much a snow event would cost General Services to remove snow in the district and thinks that the amount was approximately \$82,000 per event.

Councilor St. Hilaire indicated that earlier he requested cost figures for snow melt and inquired whether it can also be broken down to get from Loudon Road to Theatre Street for both sidewalks as well as the road. He also asked for what the cost and the bond would be, what the incremental costs would be over the projected project; if they wanted to have heated roadways how much extra bond payment would that be and how does that compare with the maintenance cost for the road. He added that Attorney Rosenburg had some comments and asked if staff could work with him to see what they can work out regarding his concerns.

Councilor Nyhan noted that it seems like Council is being asked to make decisions about more definitive details on something that they don't have any additional information on.

Referencing the snow melt, Councilor Patten questioned whether they would be stopping at the intersection of Loudon Road and North Main Street. Mr. Roberge responded that they extend north one block, from Storrs to Storrs. Councilor Patten inquired whether it would be going down South Main Street towards The Draft. Mr. Roberge responded that to be correct. Councilor Patten questioned Eagle Square. Mr. Roberge indicated that resurfacing the square was a project kind of related to Main Street and they are going to do that work as part of this project. Councilor Patten indicated that he received comments from Warren Street merchants questioning as to why the side streets are excluded. Mr. Roberge responded that when they met with Concord Steam there is adequate capacity to heat a larger area but what

they would run into is where do they stop. He noted that what they want to do is provide stub connections so that they can expand in the future.

Councilor Bouchard noted that she feels that the snow melt is a very important feature to bring in shoppers to downtown and noted that she feels that Phenix Avenue needs to be reconsidered. In regards to the bus stops, she inquired whether it was a definitive yes that a bus stop stays at the Kennedy building. Mr. Roberge responded that it was a definitive yes. She asked why there was not a diagonal crossing at Pleasant and Main. Mr. McCarty responded that it's an efficiency for the cars. He added that one of the issues that they have with the signal is that today there are two lanes of traffic approaching that signal so there is two lanes of storage. He noted that, with only a single lane, the storage for people queued at that red light is going to get longer so they are trying to make sure they are optimizing the timing of that signal to get those cars cleared and reduce the delay as much as possible.

Councilor Nyhan asked that if it takes a minute to go on each leg of this and only 90 seconds to go diagonally, isn't it creating more time to cross the other side of the street. Mr. McCarty responded that the issue with the diagonal is that it has to have its own phase so that's an all red for all the approaches.

Mayor Bouley asked the Council to suspend the rules and consider holding the meeting beyond 11:00 p.m. in accordance with Rule 16 of the Council Rules. Councilor Bennett moved to hold the meeting beyond 11:00 p.m. The motion was duly seconded and passed on a voice vote.

Councilor Keach noted that he would like Phenix Avenue to be reviewed. He asked that if the Concord Steam project does not move forward, how would this impact the project. Mr. McCarty brought up the slide of Phenix Avenue indicating that what they are showing is that they would create this new plateau for this new park on the Main Street side and possibly maintain a walkway or stairs to provide that pedestrian access down to Low Avenue. He stated that they have gone beyond that now and have convinced themselves that they can retain that pedestrian access and make it accessible; there would have to be a series of ramps or they could do a series of tiers or terraces connected by the ramps and there wouldn't need to be the tall walls that people are concerned about. He noted that they have not developed those details but they can do that to make it accessible. In respect to Concord Steam, Mr. Law stated that is a bit of a conundrum but what they do is design a system with different technologies and different energy sources so that they institute and then really analyze the cost to drive that. Councilor Keach clarified that given the current condensation that is produced on Main Street that would not be enough to melt what they wanted to melt. That was indicated to be correct.

Councilor Kretovic asked whether Council could also receive the cost benefit analysis.

Councilor McClure inquired as to what would happen to the trees if there were heated sidewalks and/or streets. Mr. Law responded that it wouldn't affect their growing needs/cycle. In reference to Concord Steam going away, Councilor McClure asked whether other solutions could be priced out. Mr. Roberge responded that Councilor Kretovic's request for a cost benefit analysis would cover this. Referencing the loading trucks on Phenix Avenue, Councilor McClure indicated that she would feel more comfortable not

approving the third item until staff came back to Council with more information as to how this is going to be resolved. Mr. Roberge indicated that they looked at an option of instead of having a full bump out to maybe have a cut out for a truck that could be parallel to Main Street. He stated that they also looked at potentially modifying the bump out on Depot Street for a loading area here as well stating that it would almost serve the same noting that this seemed to be favorably received. He stated that they prefer that Council act on the elements this evening so they can continue developing the design but will certainly continue to coordinate with everybody that has made comment.

Referencing the costs, Mayor Bouley indicated that this was the first time that Council has seen these numbers and asked that they be available to the public. He noted that the Council has stressed over and over repeatedly that communication is going to be critical to the success of this project if it goes forth. Referencing Phenix Avenue, he noted that he is glad to hear that they are considering to pursue this and to look at all the options. Mayor Bouley indicated that he would like to add to the motion to take the issue of a roundabout at Main and Pleasant off the table. Councilor St. Hilaire accepted that as a part of his motion to accept the report.

The motion to accept the report and to take the issue of a roundabout at Main and Pleasant off the table passed with one dissenting vote.

Reports

48. Status report from the City Engineer on the Sewalls Falls Bridge Replacement Project, CIP #22). (1-49) (*Supplemental report submitted*) (***Communication from Elizabeth Szelog submitted***)

Action: City Engineer Ed Roberge provided a brief overview of his report.

Robert Faulkner, CHA Project Manager, explained that the project began back in 1999 with the NH DOT as a bridge replacement project and in the initial stages of that Part A preliminary design they evaluated several alternatives for the bridge's replacement and through the public process that's where the idea of possibly rehabilitating the bridge for vehicular traffic came to be. He stated that this Alternative H was the preferred alternative, to rehabilitate the existing bridge for one lane of traffic and build a sister bridge upstream for another lane of traffic. He indicated that one of the things that was not done under that NH DOT project was a detailed inspection and load rating of the existing truss to determine the extent of rehabilitation that would be necessary to support legal traffic loads. He explained that one of the steps that the city did when they took the project over in 2010 was to have them conduct that detailed inspection of load rating analysis and the results of that was that the extent of rehabilitation was much greater than originally envisioned.

Councilor Blanchard asked whether this deterioration had occurred over the ten year period. City Manager Aspell explained that the bridge is a constant maintenance issue for the city and does require maintenance on a regular basis and does continue to deteriorate as it gets older.

Councilor Kretovic moved to accept the report and recommend alternative 8. The motion was duly seconded.

Councilor McClure noted her support of the motion. She indicated that she does have some concerns from the community and as to how they are going to be handled as far as the final design: aesthetic and speed. She added that she would like to see some process whereby the community is involved as well as the Council.

Councilor Shurtleff noted his support of Councilor Kretovic's motion.

Mayor Bouley indicated that he received an email earlier indicating that it was felt that a public hearing should be held on this item. He stated that there have been several public meetings on this item in which the public was welcomed to speak at.

Councilor Kretovic's motion passed with no dissenting votes.

New Business

Unfinished Business

49. 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. (6-17) (7-36B; 7-38) (8-53) (9-39)(10-31) (11-43) (12-42) (1-52) (*Action on this item tabled following a July 9, 2012 public hearing*)

Action: Item remains on the table.

Comments, Requests by Mayor, City Councilors

Councilor Kretovic indicated that the new bus schedules are out.

Councilor Nyhan thanked General Services for the job they did during the big snowstorm.

Councilor Keach indicated that he received an email in which someone suggested an alternative to the panhandling problem in which the city take surplus meters and install them around the city, paint them a certain color, and every coin that goes into the meters goes to a certain service within the community to support homeless shelters in the hopes to eliminate panhandling.

Mayor Bouley thanked General Services for a good job clearing the snow.

Comments, Requests by the City Manager

City Manager Aspell noted that the city has upgraded the internet speed at the library. He added that on Thursday, February 14th the city's new website will be going live.

Consideration of items pulled from the consent agenda for discussion

Items 17, 20, 28 and 29 have been pulled from the consent agenda for discussion.

17. Semi-Annual Report of Contracted Solid Waste and Recycling Services from the General Services Director. *(Pulled from consent by Councilor McClure)*

Action: Councilor McClure pointed out that complaints were up and questioned why and what the city is doing about it. She stated that she has spoken to the City Manager and he has indicated that future reports will have something about what the city is doing to satisfy or to remedy this.

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

20. Report from the Deputy City Manager – Finance on the recommendation from the Fiscal Policy Advisory Committee (FPAC) on the revised Fiscal Goals and new Fund Balance Policy. *(Pulled from consent by Councilor McClure)*

Action: Councilor McClure moved to refer this item to the Fiscal Policy Advisory Committee for consideration at their February meeting and coming back to Council in March. The motion was duly seconded and passed on a voice vote.

28. Resolution authorizing the City Manager or his designee to apply for unmatched grant funding through the New Hampshire Department of Safety Homeland Security Grants program for swift water rescue equipment; together with a report from the Fire Chief. *(Pulled from consent by Councilor McClure)*

Action: Councilor McClure asked for more information as to why the city needs this boat and what the city has now compared to what is being proposed to purchase with this grant. Fire Chief Dan Andrus explained that the total grant amount is \$48,317.50 and what this buys is an equipment list that came to them by way of the State Fire Academy. He stated that what they are currently using is ice rescue equipment which is inappropriate and dangerous. He indicated that they sent seventeen people through swiftwater rescue courses and it became very apparent that they have trained people but their equipment cache lags behind. Councilor McClure noted that one of her cautions about this grant is that once they acquire things with grants and five to ten years later when they wear out, nobody knows that they were originally purchased with grant funds and all of a sudden there is a new expense in the budget. She referenced CIP #375 and indicated that there are Fire Department boats for acquisition in 2016 at the cost of \$25,000. She questioned whether the city will be needing those boats with the acquisition of the boat with the grant fund. Chief Andrus responded that they could possibly defer that for 2 or 3 years. Councilor McClure asked if he would anticipate not spending that \$25,000 until 2018. Chief Andrus replied that that is the hope that they are able to do that.

Councilor McClure moved approval. The motion was duly seconded.

Councilor Bennett read “the 2011 Hazard Mitigation Plan identifies flooding as the principal threat to the city” and questioned whether this was referencing the Merrimack River. Chief Andrus responded yes indicating that he believes that the plan was completed a year ago and the Council adopted the Hazard Mitigation Plan.

The resolution passed with no dissenting votes.

29. Resolution authorizing the City Manager or his designee to apply for unmatched grant funding through the New Hampshire Department of Safety for community emergency response teams; together with a report from the Fire Chief. (***Pulled from consent by Councilor McClure***)

Action: Councilor McClure indicated that she pulled this item for the same reason as item 28 in which they purchase things with grant funds and don’t know that later when they need replacement. She asked if Administration could figure out a way so that these types of purchases are tagged so that future Councils understand that they were originally purchased with grant funds for both the training and the capital projects.

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

Councilor St. Hilaire moved to suspend the rules to consider items not previously advertised. The motion was duly seconded and passed with no dissenting votes.

Councilor St. Hilaire moved to accept the report from the City Solicitor dated February 11th which authorizes the releases the minutes for a non-public session held on March 9, 2009. The motion was duly seconded and passed with no dissenting votes.

Adjournment

The time being 11:38 p.m., Councilor Keach moved to adjourn the meeting. The motion was duly seconded and passed with no dissenting votes.

A true copy; I attest:

*Michelle Mulholland
Deputy City Clerk*