



Non-public session in accordance with RSA 91-A: 3, II (d) to discuss property acquisition followed by non-public session in accordance with RSA 91-A: 2, I (a) to discuss collective bargaining strategies to be held at 5:30 p.m.

City Council Meeting
Minutes
September 8, 2014
City Council Chambers
7:00 p.m.

1. The Mayor called the meeting to order at 7:00 p.m.
2. Invocation by Chaplain Duane Bailey, Concord Regional VNA Hospice.
3. Pledge of Allegiance.
4. Roll Call. Councilors Bennett, Bouchard, Mayor Bouley, Councilors Champlin, Coen, Grady Sexton, Herschlag, Keach, Matson, McClure, Nyhan, St. Hilaire, Shurtleff, Todd and Werner were present.
5. Approval of the July 30, 2014 and the August 11, 2014 Meeting Minutes.

Action: Councilor Grady Sexton moved approval of the July 30, 2014 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

Councilor St. Hilaire moved approval of the August 11, 2014 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

6. Concord Reads Presentation – The Last Policeman by Ben Winters.

Action: Ann Walls, Concord Public Library Foundation, and Deb Baker, Concord Public Library, provided an overview of the program and announced that the Concord Reads book is the Last Policeman which is set in Concord and is a pre-apocalyptic police procedural. They explained that there will be a variety of fun events surrounding the book.

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.

Action: Councilor Nyhan moved approval of the consent agenda with items 8 and 24 being removed for discussion at the end of the agenda and to recognize a suspension of the rules for item 9. The motion, as amended, was duly seconded and passed with no dissenting votes. Mayor Bouley, Councilor Todd and Councilor Shurtleff did not vote on item 10, taking up Rule Six.

Referral to Community Development

8. Request from Councilor Herschlag asking that staff develop a process individuals and/or businesses could follow should they believe that damage from construction has occurred to their property. (*Pulled from consent by Mayor Bouley*)

Action: Item removed from the consent agenda for discussion.

Item for a September 8, 2014 Public Hearing

(Subject to Council waiver of Section 4 of the City Council Rules)

9. Resolution accepting and appropriating \$1,036,100 from the Siena/Bodwell Joint Venture Group for the purchase of State of New Hampshire and City of Concord surplus property and for any associated real estate transaction costs; together with report from the Deputy City Manager – Development.

Items Tabled for October 14, 2014 Public Hearings

10. Resolution appropriating the sum of \$50,000 for the City of Concord's 250th Anniversary to be funded from General Unassigned Fund Balance; together with report from the Deputy City Manager – Finance.
11. Resolution appropriating \$1,536 to the North End Opportunity Corridor Tax Increment Finance District Fund Operating Budget for Fiscal Year 2014, retroactive to June 30, 2014; together with report from the Deputy City Manager – Finance.
12. Resolution accepting and appropriating the sum of \$108,000 from DG Strategic II, LLC for the construction of sanitary sewer system improvements along Fisherville Road in conjunction with the Sanitary Sewer Rehabilitation and Construction Project, CIP #91; together with report from the City Engineer.
13. Resolution accepting and appropriating the sum of \$111,690 in grant funds from the Federal Emergency Management Agency for the purpose of purchasing new protective breathing equipment for the Fire Department for CIP 573; together with report from the Fire Chief.

14. Resolution accepting and appropriating the sum of \$3,000 in unmatched grant funds from the New Hampshire Department of Safety; together with a report from the Fire Chief.

From the City Manager

15. Positive Citizen Comments.

Consent Reports

16. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$1,835.70 as provided for under the preauthorization granted by City Council.
17. Diminimus gifts and donations report from the Parks & Recreation Director requesting authorization to accept monetary gifts totaling \$2,723.30 as provided for under the preauthorization granted by City Council.
18. Diminimus gifts and donations report from the Police Department requesting authorization to accept monetary gifts totaling \$6,114.00 as provided for under the preauthorization granted by City Council.
19. Diminimus gifts and donations report from the Police Department requesting authorization to accept monetary gifts totaling \$4,492.80 as provided for under the preauthorization granted by City Council.
20. De-authorization report from the Parks and Recreation Director.
21. Preliminary Financial Statement Report for fiscal year ending June 30, 2014 from the Deputy City Manager – Finance.
22. Compliance with RSA 674:21 V (1) Impact Fee Report from the Deputy City Manager – Finance.
23. Report from the Parks & Recreation Director recommending 2015 Membership Rates for the Beaver Meadow Golf Course.
24. Report from the City Engineer regarding the status of the Sewall's Falls Bridge Project, CIP (*Pulled from consent by Councilor Coen*)

Action: Item removed from the consent agenda for discussion.

25. Report from General Services recommending the City Manager be authorized to apply for and accept grant funds from the NH Department of Environmental Services relative to Local Source Water Protection.
26. Annual Leased Parking Spaces Report from the Director of Redevelopment, Downtown Services, and Special Projects.

27. Status report concerning environmental cleanup of the former Allied Leather & Amazon Realty sites from the Director of Redevelopment, Downtown Services & Special Projects.
28. Report from the City Engineer recommending that the City Manager be authorized to enter into a license agreement with Concord General Mutual Insurance Company to maintain a landscaped garden within the public right-of-way of North State Street at the intersection of Bouton Street.

Consent Resolutions

29. Resolution authorizing the City Manager to submit an application for Transportation Alternative Program (TAP) funding from the New Hampshire Department of Transportation for the purpose of designing and constructing a portion of the Merrimack River Greenway Trail, CIP #543; together with report from the City Engineer.
30. Resolution authorizing the City Manager to submit an application to the National Network of Libraries of Medicine New England Region 2014-2015 Focused Outreach Award Program; together with report from the Interim-Co Library Directors.

Consent Communications

31. Street closure request from Concord High School for their homecoming parade as well as an ALS Walk, to be held on Saturday, September 27, 2014. (*Withdrawal request received*)
32. Street closure request from the Concord Family YMCA for a block party/barbecue to be held on Friday September 26, 2014.
33. Street closure request from Girls on the Run of New Hampshire for a 5K road race to be held at Memorial Field on Sunday, November 16, 2014.
34. Street closure request for a block party to be held on Saturday, September 27, 2014, Tahanto Street from School Street to Warren Street.

Appointments

35. Mayor Bouley's proposed reappointments to the Community Development Advisory Committee (CDAC). *Jeff Bart and Janet Sprague*
36. Mayor Bouley's proposed appointment to the Everett Arena Advisory Committee.
Don Crandlemire

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

37. September 8, 2014 Public Hearing

- A. Resolution accepting and appropriating the sum of \$4,714 from the New Hampshire Department of Transportation (NHDOT) for a portion of the construction of the municipal water main relocation across the Exit 12 Bridge over I-93; together with a report from the Associate Engineer. (8-10)

Action: City Manager Tom Aspell provided a brief overview.

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

- B. *(Subject to Council waiver of Section 4 of the City Council Rules)*
Resolution accepting and appropriating \$1,036,100 from the Siena/Bodwell Joint Venture Group for the purchase of State of New Hampshire and City of Concord surplus property and for any associated real estate transaction costs; together with report from the Deputy City Manager – Development.

Action: City Manager Tom Aspell provided a review of the staff report. He asked that Council approve this proposed resolution to proceed with the project.

Mayor Bouley opened the public hearing.

Public Testimony

Ray D'Amante asked for Council's support of the proposal.

Referencing the boot leg of the roadway, Councilor St. Hilaire questioned whether this is going to connect also with Old Loudon Road all the way through. Mr. D'Amante responded yes.

Councilor Champlin asked if Mr. D'Amante's interest is constructing that leg of "new" Old Loudon Road that connects with D'Amante Drive and inquired as to the cost. Mr. D'Amante responded that they are waiting for an engineering estimate but indicated that its multi six figures for the acquisition of the land, the construction of the road and the signals.

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

September 8, 2014 Public Hearing Action

38. Resolution accepting and appropriating the sum of \$4,714 from the New Hampshire Department of Transportation (NHDOT) for a portion of the construction of the municipal water main relocation across the Exit 12 Bridge over I-93; together with a report from the Associate Engineer. (8-10)

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

39. *(Subject to Council waiver of Section 4 of the City Council Rules)*

Resolution accepting and appropriating \$1,036,100 from the Siena/Bodwell Joint Venture Group for the purchase of State of New Hampshire and City of Concord surplus property and for any associated real estate transaction costs; together with report from the Deputy City Manager – Development.

Action: Councilor Nyhan moved approval. The motion was duly seconded and passed with no dissenting votes, receiving the necessary 2/3rds vote.

Reports

40. Report from the City Engineer on the status of the Downtown Complete Streets Improvement Project, CIP 460.

Action: City Engineer Ed Roberge highlighted his staff report to Council.

City Manager Tom Aspell added that staff will come back in the fall with the lighting plan and the signage plan. He stated that they feel that the change in the construction schedule is vitally important because they feel it will help the downtown merchants. He asked the Council for their approval on this so that they may move forward.

Councilor Champlin inquired whether the added parking spaces would be parallel or diagonal. Mr. Roberge responded that they would be angled spaces.

Councilor Nyhan thanked staff for their efforts and noted his appreciation for the added parking spaces. He hopes that with the replacement of the bus shelter with a bench that they are going to put this in a safe place in case it can be reused elsewhere within the city.

Councilor Herschlag asked if Council will be able to see a design plan for the revised plans for the proposed parking in front of the Vegas Block. Mr. Roberge indicated that staff could bring that forth to Council.

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

New Business

41. Communication from New Hampshire Municipal Association regarding their upcoming 2015-2016 Legislative Policy Conference to be held on September 26, 2014.

Action: Mayor Bouley indicated that, typically, Council finds out if anyone is going to the conference and, if so, would they attend representing the city.

Councilor Bennett indicated that he would be representing the city at this conference.

Unfinished Business

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) (2-33I; 2-42) (3-39) (4-37) (5-58) (6-53) (7-40) (8-65) (9-37) (10-36) (11-40) (12-37)(1-42) (2-56) (3-45) (4-18) (5-45) (6-42) (7-38) (8-26) (*Action on this item tabled following a February 2013 public hearing*)

Action: This item remains on the table.

43. Ordinance amending the Code of Ordinances, Title III, Building and Housing Codes; Chapter 27, Housing Maintenance and Occupancy Code; Article 27-1, Housing Maintenance and Occupancy Code, Section 27-1-5, Amendments to the International Property Maintenance Code/2009; together with report from Code Administration. (8-14)(9-26C; 9-29) (10-37) (11-41) (12-38) (1-43) (2-57) (3-46) (4-49) (5-46) (6-43) (7-39) (8-27) (*Action on this item was tabled after a public hearing was held on September 9, 2013.*)

Action: This item remains on the table.

44. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 29.2, Public Capital Facilities Impact Fees Ordinance; Section 29.2-1-2, Assessment and Collection; together with report from Acting City Planner. (1-9) (2-45A; 2-46) (3-47) (4-50) (5-47) (6-44) (7-40) (8-28) (*Action tabled on this item; item also referred to the Impact Fee Committee after a public hearing was held February 10, 2014*)

Action: This item remains on the table.

45. Ordinance amending the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance, Article 28-6, Sign Regulations, Section 28-6-7, Signs Prohibited Under this Ordinance and Glossary; together with a report from the Zoning Administrator. (2-16) (3-35E; 3-39) (4-51)(5-48) (6-45) (7-41) (8-29) (*March 10, 2014 public hearing opened and recessed at the request of the Deputy City Manager – Development until such time as the Planning Board has had to finalize their review*) (*Report from the Deputy City Manager – Development; together with proposed ordinance submitted in July 2014*).

Action: This item remains on the table.

Comments, Requests by Mayor, City Councilors

Councilor Champlin noted that the Multicultural Festival is being held at the State House on Saturday, September 13th from 1:30 p.m. to 6:00 p.m.

Councilor Champlin pointed out that Discover Concord is being held on Friday, September 19th from 5:00 p.m. to 8:00 p.m. and that downtown Concord will be open until 8:00 p.m.

Councilor Champlin complimented the Fire Department for their assistance in getting people out of one of the elevators at Lincoln Financial during power outage earlier this evening.

Councilor Herschlag indicated that there will be a Ward Two neighborhood meeting on Friday, September 12th at the Newell Post Restaurant from 6:00 p.m. to 7:30 p.m.

Councilor Todd noted that Concord TV and Concord 250 collaborated during the bicycle photo re-creation event. He indicated that Concord TV produced a film documenting the event and will be manufacturing dvd's that will be for sale for \$15.00. He stated that some of the dollars will be going to Concord 250.

Mayor Bouley reminded everyone that tomorrow is Primary Election Day. He noted that if anyone had questions as to where to vote they could go to the city's website or contact the City Clerk's Office.

Comments, Requests by the City Manager

City Manager Tom Aspell informed Council that they will be doing staging for the Main Street project in the downtown area to keep it as efficient as possible to save money. He indicated that one of the staging areas will be the parking lot by the State House parking area.

Consideration of items pulled from the consent agenda for discussion

- Items 8 and 24 have been pulled from the consent agenda for discussion.
- 8. Request from Councilor Herschlag asking that staff develop a process individuals and/or businesses could follow should they believe that damage from construction has occurred to their property. (*Pulled from consent by Mayor Bouley*)

Action: Mayor Bouley noted that he has concerns with the way this communication was written and doesn't feel that this Council wants to go on record with the assumptions he feels this correspondence makes. Referencing the first paragraph, he pointed out a reference to an incident that happened to a business in Penacook and the assumption reads that, in essence, the city was responsible in some way. He feels that this is really second hand information stating that the Penacook Pharmacy had reported the flooding to General Services dispatch. General Services and the contractor responded to the site and the contractor made the effort to the pump the basement as best as possible. He indicated that the owner was advised to contact both their insurance company as well as the contractor's insurance company to process a potential claim. He pointed out that there is a formal review process underway at this time using both of the insurance adjusters. The project team monitors the process and the claims to make sure there is an expedited decision and payment if necessary. He

explained that when the city does projects, both the city and the contractor has insurance but the way the correspondence is written it appears that there is an assumption that the city is the only one responsible.

The Mayor stated that he is uncomfortable adopting this because he feels this would be saying that they agree that the city is somehow responsible. The second piece that the Mayor is troubled by is that there appears to be an assumption that there is really no process for individuals who have problems with the city whenever they see damage from construction or to their particular property. He explained that the city's website has an icon that can be clicked called "report a concern" with a list of items that can be selected to make a complaint; they are quickly addressed and statistics are kept on the responses given. Lastly, he feels that the other premise with this correspondence is that there isn't already a way for people to address concerns that they have but noted that there are currently processes in place for these. He referenced the first sentence of the last paragraph "a document of this type is essential as we move forward with the construction of Main Street" and stated that he doesn't think Main Street has anything to do with this particular item and that Main Street has its own set of standards.

Mayor Bouley indicated that he feels that all that's needed is: to address problems, fix problems, and make sure that they are as responsive as quickly as they can be. He doesn't feel that any policy is going to achieve this other than simply having a good attitude to get things done.

Councilor Nyhan doesn't support creating a new policy because he feels that it already exists. He pointed out that the State Insurance Department also offers assistance to consumers who have problems with insurance claims.

Councilor Herschlag indicated that he respectfully disagrees with the Mayor's assessment stating that he did not assign blame or responsibility for this accident. He indicated that all he states is that during a rainstorm flooding had occurred. He explained that a message was left for staff before 6:00 p.m. and no return call was made until the following morning. He indicated that the contractor pumped out the basement at the urging of the property owner. He noted that there was no conversation between the city and the building owners as to what process should be followed, who should be contacted, how to file claims, and who would be responsible for what. He stated that all he is asking is that a document be created that would make it very clear as to the process that would be followed should someone believes a construction related accident occurred to their property.

Councilor Herschlag moved to refer this communication to Community Development. There was no second to the motion.

Councilor Nyhan moved to deny the request of the referral. The motion was duly seconded.

Following additional Council discussion, Councilor Nyhan's motion passed with one dissenting vote by Councilor Herschlag.

24. Report from the City Engineer regarding the status of the Sewall's Falls Bridge Project, CIP
(Pulled from consent by Councilor Coen)

Action: Councilor Coen asked for an update on the safety factor of the Sewall's Falls Bridge. He asked if the bridge should be closed sooner if the bridge could be potentially unsafe by December 1st. He further questioned whether there is a mechanism in which the city could front some of the dollars and be reimbursed at a later date for the construction and design phase.

City Engineer Ed Roberge stated that all of the projects that are funded through DOT are competing over the same dollars; this project is unique because it had some earmarked federal dollars that were set aside a number of years ago and are still available. He indicated that this is why they were able to advance the design, which is under way, to get it to a bid phase. He hopes that the rest of the funds become available in the next federal fiscal year based on some encouraging news from Washington.

In regards to the safety concerns, Mr. Roberge indicated that the reduction to three ton posting has extended its life and they have been able to somewhat predict what they believe are going to be the levels of disrepair. He noted that if they have another winter that they had last year which caused deterioration, he fears that they will see this again this year to the point of being significant. He indicated that they are at a point in which they are throwing good money at bad. He pointed out that he has made the recommendation to close the bridge prior to the winter conditions so they don't have to experience that. Mr. Roberge noted that they may have to make an earlier decision to close it if winter comes early this year. He explained that the concrete surface of the bridge deck has a lot of cracks in it with a lot of deterioration so that when a level of moisture gets to it, it really starts to affect the composite nature of steel and concrete together.

Councilor Coen asked why the demolition of the current bridge couldn't be done today or tomorrow; why are they waiting for the demolition. Mr. Roberge responded that this could be done earlier than later stating that there are some significant provisions because there are utilities on the bridges so, with the planning horizon and when they can get into the bridge,

they have to make sure they can get their permitting window. This means in water work – they can only get in that river during a certain time in order to demo the bridge.

Councilor Shurtleff asked whether it was fair to say that the delay in the replacing of the Sewall's Falls Bridge is not a result of any action or inaction by this Council. Mr. Roberge responded that to be true.

Councilor St. Hilaire indicated that he had a constituent ask him if the bridge would remain open to bicycle traffic after December 1st. Mr. Roberge replied that it could but asked them to keep in mind that the city would not be plowing the bridge so there will be snow cover on it.

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

Consideration of Suspense Items

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

9 Sus1 Street closure request for a neighborhood block party to be held on Humphrey Street on Saturday, September 13, 2014.

Action: Councilor Nyhan moved approval of the street closure request. The motion was duly seconded and passed with no dissenting votes.

Adjournment

The time being 8:12 p.m., Councilor Nyhan 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*