



***Non-public meetings in accordance with RSA 91-A: 3, II (d)
to discuss property acquisition and RSA 91-A:2, I (b) non-public meeting with legal counsel
to be held at 5:30 p.m.***

City Council Meeting
Minutes
September 9, 2013
City Council Chambers
7:00 p.m.

1. The Mayor called the meeting to order at 7:00 p.m.
2. Pastor David Pinckney from the River of Grace Church was not present for invocation.
3. Pledge of Allegiance.
4. Roll Call. Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady Sexton, Keach, Kretovic, McClure, Nyhan, Patten (left early), St. Hilaire, Shurtleff and Werner were present.
5. Mayor Bouley presented a resolution in recognition of the services of Lieutenant Paul Leger. (7-27) (8-5)
- 5a. Mayor Bouley presented a proclamation recognizing the 250th anniversary of the City of Concord.
6. Approval of the August 12, 2013 Meeting Minutes.

Action: Councilor St. Hilaire moved approval of the August 12, 2013 meeting minutes. The motion was duly seconded. Councilor Blanchard pointed out that the bottom of page 14 referenced the “Mayor” closed the public hearing and stated that it should read the “Mayor Pro Tem”. The minutes, as amended, passed with no dissenting votes.

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 item 13 being removed to the end of the agenda for discussion. The motion was duly seconded and passed with no dissenting votes.

Items Tabled for October 15, 2013 Public Hearings

8. Resolution appropriating \$12,000 to the arena fund operating budget for Fiscal Year 2013, retroactive to June 30, 2013; together with report from the Deputy City Manager – Finance.

From the City Manager

9. Positive Citizen Comments.

Consent Reports

10. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$15,169.09 as provided for under the preauthorization granted by City Council.
11. Diminimus gifts and donations report from the Human Services Director requesting authorization to accept monetary gifts totaling \$600 as provided for under the preauthorization granted by City Council.
12. Diminimus gifts and donations report from the Fire Department requesting authorization to accept monetary gifts totaling \$1,000 as provided for under the preauthorization granted by City Council.
13. Report from the Fire Chief on Life Safety Evaluations and Standby Personnel at Special Events.
(Pulled from consent by Councilors Kretovic and Keach)
Action: Item removed from the consent agenda for discussion.
14. Report from the Parks and Recreation Director recommending the approval of 2014 Beaver Meadow Golf Course Members rates.
15. Preliminary Financial Statement report for fiscal year ending June 30, 2013 from the Deputy City Manager – Finance.
16. Compliance with RSA 674:21 V (1) Impact Fee Report from the Deputy City Manager – Finance.
17. Council Quarterly Priorities Report.
18. Annual Report on Leased Parking Spaces – in accordance with Ordinance No., 2232, passed August 11, 1997 from the Director of Redevelopment, Downtown Services, and Special Projects.
19. Appropriation transfer report from the Assistant Finance Director.
20. Report from the Director of Redevelopment, Downtown Services and Special Projects regarding tax deeded property at 114 Ironworks Road and 280 North State Street in Concord.

Consent Resolutions

21. Resolution deauthorizing the sum of \$17,900 from CIP #53 for the frangible mounts and a beacon on the localizer for the runway 17/35 as no longer necessary; together with report from the Deputy City Manager – Finance.
22. Resolution authorizing the City Manager to enter into a development agreement amendment with Capital Commons, LLC; together with report from the Director of Redevelopment, Downtown Services & Special Projects.

Consent Communications

23. Street closure request from Intown Concord for Halloween Howl, to be held on October 25, 2013.
24. Street closure request for an annual neighborhood block party to be held on Tahanto Street on Sunday, September 15, 2013 from 4:00 – 7:00 p.m.

Appointments

From the Mayor

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

August 12, 2013 Public Hearing Action

25. Resolution accepting and appropriating \$258,024 in unmatched grant funds from the Office of Domestic Preparedness – State Homeland Security Program and Law Enforcement Terrorism Prevention Program, funds designated for the purpose of purchasing a specialized response/rescue vehicle; together with a report from the Police Chief. (7-13) (8-48A; 8-51) *(Public testimony received) (Additional communication received)*

Action: Councilor Bennett moved to remove this item from the table. The motion was duly seconded and passed with no dissenting votes.

Mayor Bouley explained that the public hearing for this was held and closed at the August Council meeting. He indicated that two testimony cards had been completed this evening in opposition to this item.

Councilor Nyhan moved approval of the resolution. The motion was duly seconded.

Councilor Blanchard indicated that she would like to set the record straight because there has been talk that the Police Chief was meeting with her to strong arm her to vote for the bearcat. She clarified that it was untrue and that she initiated the meeting because she wanted to ask the Police Chief some very pertinent questions so that she could make an intelligent decision. She noted that every Councilor had the right to speak with department heads and the City Manager individually about any issue for informational purposes. Councilor Blanchard indicated that she intends to vote in favor of accepting the federal dollars to purchase the bearcat reasons being that

it is replacing a current vehicle that is failing and, secondly, she has great trust in the police department and there is no intent of them using this vehicle aggressively.

Councilor Werner indicated that he will be voting against acceptance of the federal dollars. He noted that he has become convinced, through a variety of conversations, that the city has adequate resources to meet challenges that they may face.

Councilor Bennett echoed the sentiments of Councilor Werner noting that he feels that this is something that the city does not need and feels that there are adequate resources within the community.

Councilor Shurtleff stated that he appreciated all the input from individuals during the public hearing on this item. He noted that he will be voting for the motion stating that he hopes the city never has to use this piece of equipment but he would be glad to know that their local law enforcement has it in case they do.

Councilor St. Hilaire stated that there was a lot of good input during the public hearing last month and there are various ways that they can view this issue and that he understands some of the sentiments that brought out a lot of the crowd regarding the wording on the grant application. He pointed out that documentation has been received to show that the wording has been redacted and changed in the records of the Department of Safety. He indicated that the city can't have its police officers go into an unprotected situation or if there is a hostage situation he wants to know that there is a vehicle available to go rescue individuals. Councilor St. Hilaire pointed out that it's not the Concord Police Department that is getting this grant and owning this vehicle, this vehicle would be the property of the Central Special Operations Unit. He added that they already have a vehicle anyway and, from his view, this is just a replacement of that vehicle. He stated that he will be voting for this resolution.

Councilor Kretovic indicated that this has been a really difficult decision and noted her appreciation for the number of people that reached out to this community. She stated that she has to vote for her ward and her ward reached out to say get this bearcat with only one person urging not to. She further noted her concern with armed robberies and home invasions that have occurred in the city recently.

Councilor Grady Sexton noted that the public testimony input that was received were really valid concerns but feels they are lucky that Concord has a very long history of community policing. She stated that the fact that their current vehicle has only been used in the most extreme and rare circumstances is a testament to the type of police work that is in the community. She indicated that they need a new vehicle to keep people safe and that it could be the difference between life and death in certain situations stating that she feels that it's her moral and ethical obligation to vote in favor of providing all the tools that this city feels is necessary to keep its citizens and officers safe.

Councilor Coen understands that there are places in the country in which the police have abused their authority but hasn't seen this in Concord. In regards to the bearcat vehicle, he pointed out

that it is not a Concord Police vehicle but one that would be used by twenty communities. He stated that he will be voting in support of the motion to accept.

Councilor Bouchard stated that she completely supports Chief Duval noting that he is a very capable and the city is very lucky to have him. She noted that she feels that there is confusion on the community about exactly what this vehicle is. She stated that she will not be supporting the bearcat noting her agreement with Councilors Werner and Bennett that they have other similar vehicles available for access.

The motion to approve passed 11 to 4 on a roll call vote with Councilors Coen, DelloIacono, Grady Sexton, Keach, Kretovic, McClure, Nyhan, St. Hilaire, Shurtleff, Blanchard and Mayor Bouley voting yes. Councilors Patten, Werner, Bennett and Bouchard voted no.

26. September 9, 2013 Public Hearings

- A. Resolution accepting and appropriating the sum of \$48,315 in unmatched grant funds from the New Hampshire Department of Safety Homeland Security Grant Program; together with report from the Fire Chief. (8-12)

Action: City Manager Tom Aspell provided a brief overview.

Councilor Blanchard asked how badly the department needed the inflatable boat. Fire Chief Andrus responded that, when they put the list together, every item on the list is something that they considered necessary. He explained that they were informed on May 15th and proceeded for several months with the understanding that the boat would not be eligible and that he received a phone call from the state that they could apply for a waiver. Chief Andrus noted that he feels that this would be a worthwhile thing to do.

Councilor Nyhan asked why the boat is considered ineligible and inquired whether there is a viable replacement or alternative. Chief Andrus replied that they have an ice sled that they use for ice rescues and explained that it's not a very good substitute because it's really meant for ice rescue, meant to slide and not float. Councilor Nyhan inquired as to what basis the inflatable boat was considered ineligible for the funds. Chief Andrus responded that he is not entirely clear as to why but was told that no water craft are eligible.

Councilor Bennett questioned whether these were items that they are replacing or new purchases. Chief Andrus replied that this is new equipment.

Mr. Aspell explained that this in no way obligates the Council to continue to replace this equipment moving forward.

Councilor Bennett noted that when this was being discussed back in February and May, he had asked the question about a report that was referenced in regards to flooding and swiftwater rescue and indicated that he would like to see a copy of that report because he wasn't aware that there was a need for any of this equipment. He stated that he will not be supporting this resolution.

Councilor Coen inquired as to where the inflatable boat would be implemented. Chief Andrus responded that it would be used in conjunction with water rescues; there are currently three boats in their fleet and this would be a smaller boat primarily used for carrying equipment. Councilor Coen asked what the size of the boat is. Chief Andrus replied that it's smaller but he doesn't have the exact dimension of the boat.

Councilor St. Hilaire inquired whether the Fire Department currently does swiftwater rescue and, if so, are they using the three other boats. Chief Andrus responded yes adding that they do use the other boats. He explained that approximately 1 ½ years ago, Council approved grant funding allowing the Fire Department to send people to be trained in swiftwater rescue. He noted that it became apparent that what they were using, ice rescue suits, were not only inappropriate for the task but in fact dangerous because they could be weighted down in the water; what they are using works well in winter but isn't something that works well for swiftwater.

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

- B. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 35, Classification and Compensation Plan, Schedule D of Article 35-2, Class Specification Index; Program Coordinator and Recreation Supervisor; together with report from Human Resources Director. (8-13)

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.

- C. 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)

Action: City Manager Tom Aspell provided a brief overview.

Councilor Blanchard noted that she recalled Council voting some time ago to adopt the International Building Code. Carlos Baia, Deputy City Manager-Development, responded that he believes she is referring to the International Existing Building Code which was adopted in 2008 to facilitate redevelopment primarily in the downtown. He explained that this one pertains to the housing code which is used for housing inspections of rental housing properties.

Mayor Bouley opened the public hearing.

Public Testimony

Roy Schweiker noted that there seems to be a new paragraph that all work in rental housing has to be done by certified professionals. He noted if this is a change he feels that people need to be aware of it because it might be a hardship to some skillful apartment owners.

Mike Santa, Code Administrator, explained that what they were trying to do there was to make people aware that state law requires licensed professionals to do work in multi-family dwellings. He noted that the only place one can do work as an owner is in your own single family home.

Councilor Bennett indicated that he has a two-family home and asked for clarification as to whether he can do electrical work on the side he lives on but not on the side he is renting. Mr. Santa clarified that to be correct.

Councilor Coen noted that over the years he has known people that have multi-units and is sure in those cases they got certified plumbers or electricians to do the work but if not questioned whether the city would inspect the unit owners work. Mr. Santa stated that the city wouldn't give a permit if they were doing their own work in a multi-family unit because that would be a violation of state law. Councilor Coen referenced plumber and electrician and inquired as to what other certified tradesperson would be needed. Mr. Santa responded that if someone is doing gas work they would need a certified individual. Councilor Coen asked whether a certified individual would be needed for carpentry or drywall work. Mr. Santa responded no explaining that this is not regulated by the state. Lisa Salvatore, Building Inspector, added that the proposed amendment does read "to further ensure the public health, safety and welfare of any new installation or major repairs in residential property". She stated that often times she will go into a rental home in which a landlord or handyman did some major work and it doesn't conform to the code and right now all she can do is tell them to get a licensed tradesperson. She stated that, with this amendment to this ordinance, she can put in her notice of violation that they need to have it corrected by a licensed tradesperson.

Councilor McClure pointed out that the way this has been written, it is not tied to state law by adding "according to state law..." and noted that, hypothetically, state law could change and this would still be in place for the city. She asked is staff's intent is to have this conform to state law or whether staff is trying to create a separate criteria and standard for housing in Concord. Mr. Santa responded that it maybe should have been worded differently and that they are trying to stay in sync with the state and its laws. Councilor McClure asked whether staff would consider adding language to that effect that the city is following state law.

Councilor Blanchard inquired as to how long this state law has been in effect. Mr. Santa replied that he was unsure but that it's been around for quite some time.

Councilor Nyhan questioned how staff would define major repair because it's a very subjective word. Ms. Salvatore responded that it would be discussed with the property owner or person doing the repair. She explained that the end result is looking at safety. Councilor

Nyhan asked, as it stands today, what the ramifications are of someone making improvements under the city's existing code questioning whether they are in compliance with the law or not. Ms. Salvatore indicated that when Council voted this in, this code was formulated specifically to Concord and tried to take every aspect of the new construction codes that may have to intermingle with existing structure codes. She stated that this is always going to be a work in progress and specific to Concord.

Councilor Werner asked for confirmation that carpentry and drywall work is not within the scope of this ordinance. Mr. Santa indicated that the question is whether a licensed professional needed to do these. He stated that there aren't any licensing requirements for general contractors, drywallers, siding and windows; in this ordinance they are only dealing with the professions that need to be licensed and regulated. Councilor Werner indicated that it may be a benefit to make this very clear within the scope of the ordinance.

Councilor DelloIacono noted his confusion; he indicated that it's been mentioned that they are following state guidelines then heard that the city had their own and could follow the International Building Code but that the city wants to build their own separate script. He inquired whether the city is adding layers that they don't need to add. Mr. Santa explained that this is just for multi-family dwellings that have rental units and that the State of NH regulates plumbers, electricians and gas fitters. He indicated that what they were trying to do, as part of their code, is to make people aware of the fact that there is a license requirement for certain work if you are in those professions. Councilor DelloIacono asked if staff's reference to the state guidelines is purely for licensing. Mr. Santa responded that to be correct. He added that if anyone is working in any part of NH for electrical work, plumbing work or gas fitters work they have to have a state license and every community in the state monitors this.

Councilor Coen noted that he's heard that this is an ongoing process that's going to be tweaked and his concern with this is that it becomes subjective and people become frustrated working with codes. He stated that he is not comfortable with this because it's not clear. Mr. Santa noted that they didn't have it in the code before and what is before the Council is an update of what they previously had. Councilor Coen asked if there was another way of approaching this in which it's a little more defined.

Referencing 704.2 smoke alarms, Councilor St. Hilaire noted that he knows that the state licenses plumbers and electricians but that is not the requirement that mandates that a multi-dwelling unit owner has to have a licensed person come in; the requirement is RSA 153:10a that there is a state law that says you have to have a licensed electrician come in to do this. Mr. Santa responded that the installation of hard wired smoke detectors in a multi-family building would require the person doing the work to be licensed which would be through the current licensing laws throughout the state. Councilor St. Hilaire noted that the requirement that somebody be licensed is not simply that the state licenses a professional; the requirement comes from the fact that there is a state statute that in any multi-dwelling unit one must be licensed to do it so that whether it is in the city's ordinance or not it's a state law that requires this. Mr. Santa indicated that to be correct.

Councilor Blanchard asked how somebody would know when to get a permit for work and if they do hire a licensed professional are those individuals supposed to be familiar with the codes of the city and know that a permit is necessary. Mr. Santa explained that the housing code program that they have in place is complaint driven.

Mayor Bouley stated that the confusion for himself has nothing to do with the fact that the State of NH chooses to license professionals. He asked if, within the state statute, there is a general threshold for when a professional needs to do the work; when is it major versus non-major. Mr. Santa responded that this is a hard question to answer explaining that within the building code there is a list of exempt work and one of them is repairs. Mayor Bouley asked if there was a better way to phrase this or is it easier to strike this section since the state law is already there. City Solicitor Jim Kennedy recommended holding off for a month for the Legal Department to make certain that they have the proper citations within this ordinance for a final hearing on this.

Referencing 704.2, Councilor McClure pointed out that staff has taken out reference to state law and noted that maybe this needs to be addressed also. Mr. Kennedy noted that he would like to revisit some of the concerns that have been addressed this evening to make sure they have been sufficiently addressed.

Councilor St. Hilaire stated that he briefly looked up the statute and didn't see that it requires that a licensed professional to do it but knows that this doesn't mean that the administrative rules don't; the Fire Marshal may have rules that requires it. He noted that if it's already there and the state requires it fine but, if not, then Council needs to know that and further feels that they need a clear answer in regards to this. He indicated that if it's not there then there may be some consideration to maybe putting a threshold for a smaller unit. Mr. Kennedy responded that he anticipates a report addressing those concerns and the other ones expressed here this evening.

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

- D. Resolution relative to the public highway discontinuance of a portion of North State Street between Church Street and Bouton Street in Concord, New Hampshire; together with report from the City Planner. (8-15)

Action: City Manager Tom Aspell provided a brief overview.

Councilor St. Hilaire noted that it is hard to visualize what Council is being asked to do without a map.

Carlos Baia, Deputy City Manager-Development, noted that the best he can say is that it would be the property parallel to Old North State Street continuing on to the Walker School property.

Councilor McClure asked if they conveyed the strip that borders the Walker School property. Mr. Baia confirmed that to be correct. Councilor McClure asked where the discontinuance

is; is it a discontinuance of that same strip or is it before Walker School. Mr. Baia explained that the strip that they conveyed they would be discontinuing any highway rights within that strip.

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

- E. Resolution appropriating the sum of \$1,570,000, including acceptance of \$560,000 in Community Development Investment Program Tax Credits from the NH Community Development Finance Authority and authorizing the issuance of \$1,010,000 in bonds and notes; said amount being the private sector supported match for construction of the Downtown Complete Street Project (CIP # 460); together with report from the Assistant for Special Projects. (8-16)

Action: City Manager Tom Aspell provided a brief overview.

Councilor Blanchard noted her concern with regard to the one bid that came in very high. She asked what makes staff think that they are going to be able to receive bids within the range of what the city is expecting to pay for this. Carlos Baia, Deputy City Manager-Development, clarified that the one bid has been rejected officially and no longer exists. He indicated that the city will be going out to rebid this project and will be working with the federal government in terms of potentially qualifying contractors; if not, the city will go to typical/traditional bid process. He explained that the City Engineer has been in contact with other communities in the New England area and, coincidentally, they have had the same challenges that the city has had: very few bids, questionable bids, etc. He indicated that it's a timing issue and explained that having a significant project bid in the middle of construction season is very challenging. He added that he believes that the city will have somebody before the end of the year.

Mayor Bouley opened the public hearing.

Public Testimony

Allan Herschlag, Wildflower Drive, noted his concern with the cost of this project. He asked if there was a reason that they can't wait to authorize funding until after the rebidding process; is there a reason why they can't wait to authorize funding until after the city decides where the remainder of the private portion of the funding will come from; is there a reason they can't wait to authorize funding until after the city and those who will be asked to pay for the private portion come to a consensus. He suggested that Council wait because construction isn't slated until April and once the bids are open they decide if and how they want to move forward and how they want to pay for this project while meeting the requirements of the tiger grant.

Councilor Coen noted that Mr. Herschlag's numbers were based upon the one bid received and pointed out that the city rejected the bid.

Roy Schweiker, Concord resident, noted that for himself there were only two features of the project that were really innovative and worthwhile: no curbs with planters demarcating the lane which was not included within the final design and the snow melt system which he doesn't know if this is going to happen. He further noted his concern with the cost of the project and the cost to the taxpayers.

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

- F. Report from the Director of Real Estate Assessments regarding a payment in lieu of taxes agreement between the City of Concord and Briar Hydro Associates for Rolfe Canal Falls, Penacook Upper Falls & Penacook Lower Falls. (8-17)

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.

- G. Resolution accepting and appropriating \$12,200 from the New Hampshire Division of Historical Resources Certified Local Government (CLG) Program for the conduct and preparation of a study of the historic carriage houses and urban barns within the City of Concord's West End Neighborhood; together with report from the City Planner. (8-18)

Action: City Manager Tom Aspell provided a brief overview.

Councilor Coen inquired as to the geographic area. City Planner Gloria McPherson responded that the survey will be approximately from Washington Street to Pleasant Street.

Councilor Nyhan asked why the survey was limited to that geographic area and not the entire city. Ms. McPherson replied that it was at the recommendation of the Division of Historical Resources. She stated that when they looked at a broader area of the city, it was too overwhelming and beyond the scope of the funding. With regard to these grant opportunities, Councilor Nyhan inquired whether these are grants that the city comes up with or are these grant opportunities that are presented to the city. Ms. McPherson responded that they come up with these at the Heritage Commission. Councilor Nyhan asked whether it would be possible to get a list, in the form of a report, of all of the projects that are being considered.

Councilor Coen asked what the value is once the survey is completed; what is the end plan to have this information. Ms. McPherson responded that part of the rationale behind doing a survey of these historic structures in this particular neighborhood is that it may be a good opportunity to evaluate how an accessory apartment by-law might actually play out on the ground in the city. She added that it may also give people the opportunity to actually reuse these structures in a way that could potentially bring income in.

Councilor Nyhan asked whether one of the outcomes of this survey is that if a carriage house is considered historic, will it prevent the property owner from being able to dispose of that

property as he/she wishes. Ms. McPherson responded that she doesn't see that as a risk and does look at it as an opportunity to potentially give greater value to these. She added that they are historic now so if people propose to demolish them, if they are greater than fifty years, they come under the demolition delay ordinance.

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

- H. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 17, Vehicles and Traffic, Article 17-6, Miscellaneous Rules, Section 17-6-7, Truck Routes in the City of Concord; together with report from the Legal Department. (8-19)

Action: City Manager Tom Aspell provided a brief overview.

Roy Schweiker, resident, noted that he feels that this may be something that can be challenged because interstate commerce is not something that the city can regulate. He noted that he understands why the city wants to do this and suggested taking a different approach by regulating what sort of trucks are allowed.

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

- I. 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 Places, Schedule III; Charles Street; together with report from the Parking Committee. (8-20)

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.

September 9, 2013 Public Hearing Action

27. Resolution accepting and appropriating the sum of \$48,315 in unmatched grant funds from the New Hampshire Department of Safety Homeland Security Grant Program; together with report from the Fire Chief. (8-12)

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

Councilor Nyhan asked that his motion to approve include instructing the Fire Chief to also apply for a waiver to purchase the inflatable boat as requested. The second was confirmed.

The motion to approve passed with one dissenting vote.

28. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 35, Classification and Compensation Plan, Schedule D of Article 35-2, Class Specification Index;

Program Coordinator and Recreation Supervisor; together with report from Human Resources Director. (8-13)

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

29. 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)

Action: Councilor St. Hilaire moved to table this item. The motion was duly seconded and passed with no dissenting votes.

30. Resolution relative to the public highway discontinuance of a portion of North State Street between Church Street and Bouton Street in Concord, New Hampshire; together with report from the City Planner. (8-15)

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

31. Resolution appropriating the sum of \$1,570,000, including acceptance of \$560,000 in Community Development Investment Program Tax Credits from the NH Community Development Finance Authority and authorizing the issuance of \$1,010,000 in bonds and notes; said amount being the private sector supported match for construction of the Downtown Complete Street Project (CIP # 460); together with report from the Assistant for Special Projects. (8-16)

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

Councilor Blanchard stated that she will be voting against this resolution because she feels that there are too many unanswered questions and many of her concerns are the same as they were when she voted against the project to begin with.

Councilor Nyhan inquired as to the timeline in making a decision on where the community match is coming from. City Manager Aspell responded that they would need to have a discussion at a City Council by the January Council meeting.

Mayor Bouley noted that the key component of the particular item is really the acceptance of \$560,000 from the Community Development Investment Program Tax Credits and the balance will have to be decided in December; the bonding action would not occur until January or February.

The motion to approve passed, 13 to 1, on a roll call vote with Councilors Bennett, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady Sexton, Keach, Kretovic, McClure, Nyhan, St. Hilaire, Shurtleff and Werner voting yes. Councilor Blanchard voted no.

32. Report from the Director of Real Estate Assessments regarding a payment in lieu of taxes agreement between the City of Concord and Briar Hydro Associates for Rolfe Canal Falls, Penacook Upper Falls & Penacook Lower Falls. (8-17)

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

33. Resolution accepting and appropriating \$12,200 from the New Hampshire Division of Historical Resources Certified Local Government (CLG) Program for the conduct and preparation of a study of the historic carriage houses and urban barns within the City of Concord's West End Neighborhood; together with report from the City Planner. (8-18)

Action: Councilor Shurtleff moved approval. The motion was duly seconded and passed with one dissenting vote.

34. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 17, Vehicles and Traffic, Article 17-6, Miscellaneous Rules, Section 17-6-7, Truck Routes in the City of Concord; together with report from the Legal Department. (8-19)

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

Mayor Bouley indicated that testimony was given that this would be unconstitutionally unenforceable. He asked whether it was true that this was already litigated before the courts and the courts have already decided this item. Danielle Pacik, Deputy City Solicitor, responded yes and what they had addressed was a preliminary injunction request and the court did enter a ruling in the city's favor at least preliminarily. She stated that they did uphold the city's interpretation of the ordinance which does prohibit trucks from going from a place in Concord to a destination outside of Concord. Referencing Manchester Street, Mayor Bouley noted that is a federal highway and the city cannot regulate this but this would regulate the city's own street. Ms. Pacik indicated that to be correct stating that the city has the power to regulate its own streets. She added that, in terms of interstate commerce implications, there have been courts that have looked at it and if there was no other way to get to the facility there might be some implications but in this situation, there is another avenue that the trucks can take to get to this particular facility.

Councilor Keach wanted to make it clear that this would not prohibit trucks from accessing that road to go to specific addresses on that road. Ms. Pacik confirmed that to be correct using Murray Farms as an example she indicated that trucks could continue using the road to get to Murray Farms.

The motion to approve passed with no dissenting votes.

35. 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 Places, Schedule III; Charles Street; together with report from the Parking Committee. (8-20)

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

Councilor Coen inquired as to when this will go into effect if approved and when would the signs be removed. City Manager Aspell responded that the City Clerk's Office will forward the information to the General Services Department tomorrow and General Services would take care of it within the next week or two.

The motion to approve passed with no dissenting votes.

Reports

New Business

Unfinished Business

36. 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) (2-49) (3-37) (4-36) (5-57) (6-52) (7-39)(8-64) (*Action on this item tabled following a July 9, 2012 public hearing*)

Action: Item remains on the table.

37. 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) (*Action on this item tabled following a February 2013 public hearing*)

Action: Item remains on the table.

Comments, Requests by Mayor, City Councilors

Councilor Blanchard asked that the Legal Department research the steps that would need to be taken for the City Council to have the final say on the Concord School District budget. She noted her frustration when the city asked for the school district's input on the bearcat issue. She pointed out that the city provides police and fire protection, pays a portion of the salary for a resource officer, collects the taxes and reimburses the school. Councilor Blanchard indicated that she didn't want to emphasize that they should have approved or disapproved one way or the other but they simply refused to think it was any of their business. She indicated that Superintendent Mike Martin of the Merrimack Valley School District feels quite differently from the Concord School District Administration and feels that "the police department is a trusted and important partner helping their students". Councilor Blanchard feels that the Concord School District wants to separate themselves entirely from the city and feels that her request is something that should be considered.

Mayor Bouley noted that Councilor Blanchard has a question that she would like answered and he thinks it's fair that it is answered.

Councilor Keach asked if the City Solicitor obligated to respond to the request of an individual councilor or does the request have to come from Council. City Manager Aspell indicated that if the majority of the Council objects to asking this question they need to let him know so he doesn't direct the Solicitor to take any action; if the majority of the Council wants staff to make this review then he will direct the Solicitor to make the review.

Councilor Nyhan stated that he supports Councilor Blanchard's request noting that he feels that it's an appropriate request.

The majority of Council noted their support of Councilor Blanchard's request.

Referencing the Northern Pass, Councilor Werner indicated that he feels that it would be beneficial for the city to gain intervener status with the project in order to be in a position to get the most up to date and accurate information about the project as it develops. His further understanding is that intervener status does not convey that they, as a Council, have taken any position on the project at this time. He inquired as to how to proceed along this line of inquiry and pointed out that the deadline of obtaining intervener status is September 18th.

City Solicitor Jim Kennedy indicated that he has preliminarily reviewed the inquiry regarding intervener status with respect to the Northern Pass Project. He explained that this would require an undertaking by the city to set forth a position to the authority that's overlooking the Northern Pass Project as to why they have a stake in this matter and why they should have a say in this matter. He indicated that this is a fact gathering exercise; it is a motion and is not automatic. He noted that he believes, to the extent that the city wanted to take such action, it would require a City Council vote to direct the city in moving to intervene in this matter.

Mayor Bouley inquired whether, if the Council wanted to put this to vote, this would require a public hearing. Mr. Kennedy responded no explaining that he believes that the direction for the city to move on this matter is a decision of the Council. He stated that Council could hold a public hearing for input but it is not a requirement for this matter.

Councilor St. Hilaire noted his support of the suggestion indicating that he recently attended a meeting in regards to this matter and was amazed to see all the neighborhoods where the right of way was so close to these people's houses and that the lines were actually a lot worse off, not necessarily because of the main Northern Pass line, but the two alternative lines that they had to move away from the Northern Pass line. He stated that he would support anything that they can do as Councilors to gain this status and use this as leverage to at least look at pole placement to make it a little bit more palatable for the neighborhoods.

Councilor Shurtleff indicated that he attended the meeting last week and had people ask him why the City of Concord wasn't doing something to stop this. He explained that he had pointed out to them that the city can't and it's basically up to the site evaluation committee and asked that the Solicitor make that acknowledgement so people are aware that the Council doesn't have the right to approve or deny the lines for the Northern Pass.

Councilor Bouchard echoed her agreement with Councilors St. Hilaire and Shurtleff.

Mayor Bouley asked what it means to be an intervener and what rights would it give the city. Mr. Kennedy responded that it means that the city would move to intervene in the matter and be a consulting party to the process of where they are putting lines and what's going on within the bounds of the city. Mayor Bouley noted that he doesn't see any downside to this if it protects their interest.

Councilor Werner moved that City Council vote to authorize the City Solicitor to formally request to become intervener status. The motion was duly seconded and passed on a voice vote. Councilor McClure took rule six.

Discussion ensued in regards to the process for requests made by Councilors.

Mayor Bouley asked the Councilor Blanchard whether she would consider withdrawing her request in regards to the Concord School District and formally present something in writing.

Councilor Blanchard indicated that she had no objection to withdrawing her request this evening.

Councilor Bennett indicated that during the bearcat vehicle hearing last month someone had made a statement that there have been no significant violent protests in New Hampshire since the 1700's and wanted to set the record straight and point out that he is aware of two that occurred in the 1960's.

Councilor Bouchard announced that Weekend on the Water was a wonderful event and was well attended. She recognized David Gill, Parks and Recreation Director, for organizing the event.

Councilor St. Hilaire announced that the Kiwanis Car Show was also a successful event.

Councilor Blanchard indicated that a constituent has informed her that there are far more than three cars that go over the Sewalls Falls Bridge at one time.

Comments, Requests by the City Manager

City Manager Aspell noted that the Weekend on the Water was a great success and that people from all over, other cities and states, attended the event.

Consideration of items pulled from the consent agenda for discussion

Item 13 has been pulled from the consent agenda for discussion.

13. Report from the Fire Chief on Life Safety Evaluations and Standby Personnel at Special Events.

Action: Councilor Kretovic indicated that she wanted more detail within the report stating that she didn't see what the fiscal impacts are and what the impacts are to the non-profits or groups that are running these different events. She stated that there is a line in the report about other cities that have adopted similar regulations but there is no request for the city to adopt the regulation.

Councilor Kretovic moved to refer this to the Public Safety Board for further review and detail. The motion was duly seconded.

Councilor Keach noted that he found the report to be confusing and that it begged more questions than answers. He added that it's not clear to him if there is an ordinance in place that requires additional personnel to be on hand. He asked the criteria of what personnel is required and when and how and why.

The motion to refer this item to the Public Safety Board passed with no dissenting votes.

Councilor St. Hilaire moved to consider taking up a suspense item not previously advertised; a request to unseal the non-public meeting minutes from May 11, 2009. The motion was duly seconded and passed with no dissenting votes.

Mayor Bouley explained that a formal request was submitted to the City Clerk to release the minutes of a non-public session held by the City Council on May 11, 2009 to be unsealed and opened to the public. He indicated that the issues that were discussed at that time are no longer issues and have all been resolved.

Councilor Blanchard moved to unseal the City Council non-public meeting minutes from May 11, 2009. The motion was duly seconded and passed with no dissenting votes.

Adjournment

The time being 9:31 p.m., Councilor Bennett 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*