



City Council Meeting
Minutes

September 12, 2011

***Non-public session in accordance with RSA 91-A: 3, II (d) to discuss
property acquisition to be held at 6:30 p.m.***

City Council Chambers
7:00 p.m.

1. The Mayor called the meeting to order at 7:00 p.m.
2. Invocation by Reverend Jason Wells, Grace Episcopal Church.
3. Pledge of Allegiance.
4. Roll Call. Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady, Keach, McClure, Nyhan, Patten, St. Hilaire, Shurtleff, Stetson and Werner were present.
5. Approval of the August 8, 2011, August 10, 2011 and August 24, 2011 meeting minutes.

Action: Councilor McClure moved approval of the August 8, 2011 meeting minutes. The motion was duly seconded and passed with no dissenting votes. Councilor Grady moved approval of the August 10, 2011 meeting minutes. The motion was duly seconded and passed with no dissenting votes. Councilor St. Hilaire moved approval of the August 24, 2011 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

6. Mayor Bouley presented a resolution in recognition of the services of Chief Robert C. Barry. (8-25)
7. Agenda overview by the Mayor.

- Consent Agenda Items -

Councilor DelloIacono moved approval of the consent agenda. The motion was duly seconded. Councilor Bennett indicated that he would like to remove item 8 to be discussed at the end of the agenda. The motion, as amended, passed with no dissenting votes.

Referral to Community Development, Code Administration, the Planning Board and the Economic Development Advisory Committee

8. Communication from Richard Uchida, Orr & Reno, on behalf of Capital Commons LLC requesting an amendment to the City of Concord's Sign Ordinance.

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

Items Tabled for an October 11, 2011 Public Hearing

9. Resolution authorizing the City Manager to enter into a Development Agreement Amendment with Capital Commons L.L.C. concerning modification of parking arrangements in the Capital Commons Municipal Parking Garage; together with a report from the Assistant for Special Projects.
10. Resolution appropriating the sum of \$1,380,000 for the purpose of design, right-of-way acquisition and permitting for the Sewalls Falls Bridge replacement project, CIP #22, including accepting and appropriating \$1,200,000 in US Department of Transportation, Federal Highway Administration Bridge Aid Funds, and authorizing the issuance of bonds and notes in the amount of \$180,000; together with report from the City Engineer.
11. Resolution accepting and expending the sum of \$9,520 for Energy Efficiency and Conservation Strategy Improvements and to install solar domestic hot water systems at the Broadway, Central and Manor Fire Stations, and the Hall Street Wastewater Treatment Facility, CIP #325; together with report from the Purchasing Manager.
12. Ordinance amending the Code of Ordinances, Chapter 18, Parking Schedules; Canal Street; together with report from the Legal Department.
13. Resolution appropriating the amount of \$9,000 to support the mission of the Concord Public Library, including adult and children's programming, advertising, and an outdoor bench; together with report from the Library Director.
14. Ordinance amending the Personnel Class Specification Index, adding the Position of Water Conservation Technician; together with reports from the Director of Human Resources and Labor Relations and the General Services Director.
15. Ordinance amending the Code of Ordinances, Personnel Rules and Regulations, Bereavement Leave; together with report from the Director of Human Resources and Labor Relations.
16. Resolution approving the acquisition of an executory interest in a conservation easement on open space property northerly and southerly of Stickney Hill Road, as approved by the Conservation Commission; and affirming the issuance of \$340,000 in bonds or notes under resolution #7661 of the City Council, adopted on

September 13, 2004; together with a report from the Conservation Commission.

17. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-2, Zoning Districts and Allowable Uses; together with report from the Legal Department. (*Housekeeping item*)
18. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; together with report from the Legal Department. (*Housekeeping item*)

From the City Manager

19. Positive Citizen Comments.
20. Council meeting date calendar.

Consent Reports

21. Appropriation Transfer Report: August 2011.
22. 2011 Encumbrance Report from the Controller.
23. Diminimus gifts and donations report from the Police Department requesting authorization to accept monetary gifts totaling \$4,718.99 as provided for under the preauthorization granted by City Council.
24. Diminimus gifts and donations report from the Recreation Department requesting authorization to accept monetary gifts totaling \$5,249.00 as provided for under the preauthorization granted by City Council.
25. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$13,386.47 as provided for under the preauthorization granted by City Council.
26. Report from the Traffic Operations Committee regarding a referral by a resident to open the gate on Cricket Lane.
27. Report from the Transportation Policy Advisory Committee on the Walk Friendly Community Application award and report card.
28. Report on the use of Parks and Recreation Trust Funds from the Parks and Recreation Director.
29. Status report from the Parks and Recreation Director on the White Park project.
30. Municipal Code Hosting Providers Report from the Legal Department.

31. 2010-2011 City Council Quarterly Priorities Report from the City Manager.
32. Report from the Director of Real Estate Assessments, on behalf of the Tax Exemption Committee, recommending no changes be made to the current blind exemption within the City of Concord.

Consent Resolutions

33. Resolution in recognition of the services of Lieutenant J. Scott Nichols.
(For presentation in October)
34. Resolution in recognition of the services of City Solicitor, Paul F. Cavanaugh.
35. Resolution authorizing the City Manager to renew and extend an agreement to lease property at 28 Canterbury Road to the Concord Area Trust for Community Housing (CATCH) Neighborhood Housing; together with report from the Assistant for Special Projects.
36. Resolution authorizing the City Manager to apply for grants from the NH Office of Energy and Planning State Energy Program / NH Department of Environmental Services partnership to be used to fund the incremental cost of two alternatively fueled vehicles which will be powered by compressed natural gas; together with report from the General Services Department.

Consent Communications

37. Street closure request for a neighborhood Block Party to be held on Rumford Street on Sunday, September 18, 2011 from 3:00 p.m. to 8:00 p.m.
38. Street closure request from Main Street Concord, Inc for Halloween Howl to be held on Friday, October 28, 2011.
39. Street closure request for a neighborhood Block Party to be held on Tahanto Street on Sunday, September 18, 2011 from 4:00 p.m. to 7:00 p.m.

Appointments

40. Mayor Bouley's proposed appointments to the Planning Board.
Richard J. Lavers, Esq. and John M. Regan

From the Mayor

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

41. **September 12, 2011 Public Hearings**

- A. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance, Bus Shelters; together with report from the Zoning Administrator. (8-7) (*Planning Board report submitted*)

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. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 17, Vehicles and Traffic; Article 17-4, Operation of Motor Vehicles; Section 17-4-1, Stop Required Before Entering a Through Street; Schedule V, Stop Intersections; Schedule V, Yield Right of Way, Penacook Street at Auburn Street and Forest Street at Auburn Street; together with report from the Traffic Engineer. (8-8)

Action: City Manager Tom Aspell provided a brief overview.

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

- C. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinances; Article 28-8, Non-Conforming Lots, Uses and Structure. Section 28-8-6, Destruction, Abandonment and Termination; together with report from the Zoning Administrator. (8-9)

Action: City Manager Tom Aspell provided a brief overview.

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

- D. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 30, Administrative Code, Article 30-3 Boards and Commissions, Board of Ethics; together with report from the Rules Committee. (8-10)

Action: There being no Council objection, the titles for public hearing items D and E were read together.

Councilor St. Hilaire, Rules Committee Chair, explained that the Rules Committee met over the course of several years mainly to address a potential ethics ordinance. He indicated that they started first with a set of rules regarding campaign contributions and the committee continued to meet and developed a code of ethics as well as a proposed ordinance creating a board of ethics. He added that he will be making some housekeeping amendments. He noted that when they were developing these codes, it was the consensus of the committee

that they were referring mainly to City Councilors, people appointed to boards and commissions and the definition of officers encompasses all those people. He stated that it has come to his attention that the City Solicitor and City Manager are appointed by the Council and feels that they were not considering those two positions. He further stated that he will be making an amendment that the definition of officer does not include those two individuals. Also, since this proposed ordinance concerns the acceptance of gifts, Councilor St. Hilaire stated that he will be making an amendment to make it clear that those gifts do not include campaign contributions.

Mayor Bouley opened the public hearings for items D and E.

Public Hearings

Rick Watrous, Concord resident, noted that the proposed ordinances have been a long time coming and feels that it's unfortunate that years have gone by before the public has been able to officially weigh in. He detailed his experience before the Rules Committee involving complaints that he brought forth. Referring to the proposed ordinances, he indicated that he feels that there needs to be a prohibition section added. He spoke to his opposition to the composition of the Board of Ethics. He noted his frustration in regards to "other information" within section 1-6-7 because of his fondness in transparency and open government. Mr. Watrous continued highlighting some of his experiences in regards to complaints he had. In closing, he stated that these things need to be out in the open and would happily work with the Council to amend the proposed ethics ordinance and to make it stronger and open and to serve the citizens of Concord.

Mayor Bouley asked if Mr. Watrous would vote for this or against it. Mr. Watrous responded that he would hold it for amending.

If Council voted to adopt these items this evening, Councilor Shurtleff asked whether it would then be open to further amendment at a later Council meeting. Mayor Bouley responded yes.

Allan Herschlag, Concord resident, noted his first concern is that the proposed ordinance indicates that an individual needs to be sworn before a justice of the peace or a notary public indicating that he feels that this is an impediment and will discourage filing. His second concern is the reimbursement for the cost of attending an event in which the elected official is a speaker, panel member or guest shall not be considered a gift noting that there is room for abuse and that there needs to be a record of these activities and the value of. He stated that this ordinance is long past due. In regards to Councilor Shurtleff's question, he asked why Council would want to adopt an imperfect ordinance that he feels clearly needs some work before being adopted.

George Coronis, Concord resident, noted he feels that the proposed ordinance needs clarification in regards to what appointed means in section 1-6-1 stating that both the Mayor and City Manager appoints individuals. He inquired whether department heads are considered appointed or hiring. City Manager Aspell responded that he hires staffs and make appointment recommendations to Council for various committees. The Mayor stated that other than the City Manager, in which the Council hires, the City Manager is responsible for everyone else and they fall under the city's personnel rules. Referencing section 1-6-6, Gifts and Favors, Mr. Coronis indicated that he feels that this amount should be zero. He added that he feels that there should be an ordinance dealing with a code of conduct for employees.

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

- E. Ordinance amending the Code of Ordinances; Title I, General Code, Code of Ethics. (8-11)

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

- F. Resolution accepting and authorizing the expenditure of \$825,000 from the State of New Hampshire Department of Transportation for their 1/3 share of the intersection improvements at Manchester Street and Airport Road; together with report from the Associate Engineer. (8Sus2)

Action: City Manager Tom Aspell provided a brief overview.

Councilor Blanchard inquired as to where that money has been sitting. Mr. Aspell responded that there are a couple of sources of city dollars here and the vast majority is impact fees that the city has collected through commercial projects that have occurred along the Manchester Street Corridor.

Councilor Coen asked if the total expenditure for the city side is up another \$400,000. Mr. Aspell agreed for the total project cost. Councilor Coen further asked what caused it to go up. Mr. Aspell responded that it is additional construction costs including pavement and land acquisitions along the property. He added that the reason that the state has agreed to put up additional dollars is because of the interest in the drainage improvements along Manchester Street.

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

- G. Resolution appropriating the sum of \$200,000 and authorizing the issuance of bonds and notes for acquisition of 10 Prince Street and completing all related due diligence. (8Sus6)

Action: Matt Walsh, Assistant for Special Projects, provided a brief overview explaining that the City Manager has signed a purchase and sales agreement for the property with the final price being \$175,000. He indicated that the appropriation before Council this evening will cover the acquisition costs as well as the due diligence that's involved with the property to make sure it's in a suitable condition for the intended use as the Human Services Department once acquired.

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

September 12, 2011 Public Hearing Action

42. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance, Bus Shelters; together with report from the Zoning Administrator. (8-7) (*Planning Board report submitted*)

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

43. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 17, Vehicles and Traffic; Article 17-4, Operation of Motor Vehicles; Section 17-4-1, Stop Required Before Entering a Through Street; Schedule V, Stop Intersections; Schedule V, Yield Right of Way, Penacook Street at Auburn Street and Forest Street at Auburn Street; together with report from the Traffic Engineer. (8-8)

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

44. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinances; Article 28-8, Non-Conforming Lots, Uses and Structure. Section 28-8-6, Destruction, Abandonment and Termination; together with report from the Zoning Administrator. (8-9)

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

45. Ordinance amending the Code of Ordinances, Title V, Administrative Code; Chapter 30, Administrative Code, Article 30-3 Boards and Commissions, Board of Ethics; together with report from the Rules Committee. (8-10)

Action: Councilor Shurtleff noted that the public testimony given this evening raised some valid points and asked Councilor St. Hilaire whether these questions came up during the committee hearings and whether they were discussed.

Councilor St. Hilaire indicated that there are so many permutations that can be discussed regarding ethics and what should be allowed, what shouldn't be allowed, if it shouldn't be allowed then what is the definition of that, how extreme you want the definition. He noted that these conversations take hours and just on gifts alone they spent a whole meeting discussing the dollar amount. He stated that if this is not passed this evening, he is confident the committee could argue this for another few years. He explained that although this takes effect upon passage, there is a state law that states that if someone is already in a position they are grandfathered in so new rules on ethics don't actually apply to them unless they are re-elected or re-appointed. Councilor St. Hilaire stated that if this was to be delayed this evening that would mean that this would not affect new incoming Council for the November election. He added that one has to keep in mind that there's always going to be a difference of opinion on what should be in the code and what shouldn't be in the code; by having a simple code it looks like it's small and short and everybody wants to make it long but the problem is that it just gets too enormous and you can't work with it. He stated that is the reason for the Board of Ethics, they are a group of individuals that would determine what does and doesn't apply. He indicated that his preference is to pass what they have before them this evening to have something in place and if changes need to be made, it's easy to make the changes.

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

46. Ordinance amending the Code of Ordinances; Title I, General Code, Code of Ethics. (8-11)

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

Councilor St. Hilaire moved to amend the ordinance by adding an additional sentence to the end of the definition of Officer in section 1-6-3 saying "officers shall not include the City Manager and City Solicitor". The motion was duly seconded and passed with no dissenting votes.

Councilor St. Hilaire moved to amend the ordinance at the end of section 1-6-6 by adding an additional sentence saying "gifts shall not include political contributions as defined in article 1-3-6 of the City Code of Ordinances". The motion was duly seconded and passed with no dissenting votes.

Councilor Bouchard inquired about the amount of \$50.00 under Gifts and Favors. Councilor St. Hilaire responded that he can't speak for the committee on this and doesn't have a recollection as to how they came up with that stating that he believes that they were just thinking about a reasonable amount for a dinner.

Councilor Keach noted that he recalls a conversation and that it had to do with the example of whether an acquaintance invited someone to a Red Sox game and the cost for this was their threshold.

Councilor St. Hilaire stated that the purpose of the code is to exempt certain things pointing out that there currently isn't any limit.

Following additional examples of gifts and their costs, Councilor Bouchard asked if ceremonial gifts are exempt within the ordinance, within the ethics codes itself. Councilor St. Hilaire responded that ceremonial gifts are not exempt and that they are included under gifts and has to be reported.

Mayor Bouley thanked committee members Councilors St. Hilaire, Stetson, Bennett, Blanchard and Grady for working on this. He also thanked City Clerk Janice Bonenfant for doing a great job bringing together what existed throughout the state, other communities and other entities. He added that he feels that it is important that Council adopts this ordinance this evening because it will help clarify some items that come before the Council and that he feels that it is a good starting point. He added that over the past four years Council has done an excellent job in making sure that the city government is open and accessible to all individuals and does believe that it's time to adopt an ethics ordinance and feels that this is a great start to an ethics ordinance.

Councilor Blanchard noted her agreement with Councilor St. Hilaire that if this is not approved, the committee could spend an inordinate amount of time on this. She feels that this is a good ordinance.

Councilor Shurtleff's motion, as amended, passed with no dissenting votes.

47. Resolution accepting and authorizing the expenditure of \$825,000 from the State of New Hampshire Department of Transportation for their 1/3 share of the intersection improvements at Manchester Street and Airport Road; together with report from the Associate Engineer. (8Sus2)

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

City Manager Tom Aspell noted that because the number is greater than the amount they originally had discussed as part of the budget, he would feel more comfortable if it passed by a 2/3rds majority vote.

The motion was approved 15 to 0 on a roll call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady, Keach, McClure, Nyhan, Patten, St. Hilaire, Shurtleff, Stetson and Werner voting yes.

48. Resolution appropriating the sum of \$200,000 and authorizing the issuance of bonds and notes for acquisition of 10 Prince Street and completing all related due diligence. (8Sus6)

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

Mayor Bouley stated that he feels that this is a smart move for the city and has had concerns over the past few years with the fact that the Human Services Department is isolated so far away on Pleasant Street. He noted that he feels that it is long overdue that they are brought back closer to the campus and closer to the Police Department.

Councilor Blanchard noted that the current Human Services office is owned by the state and that the state has chosen to disperse that building for some other purpose so Human Services does need to leave the building by fall 2012.

The motion was approved 15 to 0 on a roll call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady, Keach, McClure, Nyhan, Patten, St. Hilaire, Shurtleff, Stetson and Werner voting yes.

Reports

49. Concord Solid Waste Co-op/Single Stream Recycling Facility Status Report from the Solid Waste Advisory Committee.

Action: City Manager Aspell explained that in 2010 the Council set some perimeters and requirements to move ahead on whether or not to enter in an agreement with Concord Solid Waste Co-op single stream recycling facility to be constructed. He stated that up until just recently, the city hasn't been able to fill those requirements but the co-op is ready to move forward with the project.

General Service Director Chip Chesley noted that there were four general conditions that Council laid out for the city's participation in the project: 1) the Co-op was to secure 15 year commitments from municipalities within and outside of the Co-op to provide 25,000 tons of recycled material. Currently the Co-op has commitments of 23,871 tons; 2) the Co-op was to secure commitments for 5,000 tons of recycled funds from other sources; it's difficult now to get a commitment from a commercial carrier for a project that doesn't really exist but the Co-op is comfortable that they have forecast commitments of about 5,000 tons of recycled materials; 3) for the Co-op joint board to adopt a resolution that does not require full amortization of the project over a 15 year period; the joint board passed a resolution that doesn't require full amortization it requires it to be at half of the project costs; 4) secure the previous three conditions in a year time period in which they have been diligently working to do so. Mr. Chesley added that where the Co-op is right now is that they have called for a joint board meeting this Thursday at the Bow Municipal building to consider moving the project forward so staff needs direction as to whether to move forward with the project or to vote against the project. He highlighted benefits and risks contained within the report.

Jim Presher, Executive Director of Concord Regional Solid Waste Resource Recovery Cooperative, indicated that the time has been the most agonizing factor for him. In each community the different Councils and Selectmen have their own issues

and their own town meeting schedules so it took a lot longer than he hoped to pull everyone together.

Councilor Nyhan, Solid Waste Advisory Committee Chair, added that the committee, within the last three to four weeks, universally supported moving the project forward recognizing risks noting that he believes that those are downplayed by the factors Mr. Chesley summarized. He noted that the committee believes that there's an opportunity going forward to further reduce the solid waste costs as it relates to potentially pursuing split body trucks and collecting recyclables and solid waste simultaneously cutting down on half the transportation costs. He stated that he feels that, in this point of time, the city is well positioned as far as mitigating its risks and feels that it's worthwhile going forward and is a great economic benefit to the city moving forward.

Mayor Bouley asked how they came to the fee of \$131,000. Mr. Presher responded that it was a negotiated fee that they had discussed with former Finance Director Jim Howard at the time. He pointed out that it was \$125,000 and now its \$131,000. The Mayor further inquired as to how the fee came about. Mr. Presher referenced a facility in Franklin in which the ash from the facility goes to an ash landfill and they have had a host fee with them for 20 years that started at \$50,000 and is currently \$125,000. Mayor Bouley indicated that without the city, this doesn't work. Mr. Presher responded that to be correct.

Councilor Keach questioned whether there is a city policy to calculate these pilots and inquired as to how other ones are negotiated or calculated. Mr. Aspell replied that energy is a little different noting examples including: hydro plants which depends upon flowage and how much it rains; Concord Steam in which you try to calculate the maximum value of the plant and try to find out what was the number that actually would work in their pro-forma in terms of making their product financials work. He stated that each one is approached differently and a lot of times it has to do with whether or not the project can support it or not. He added that, in this case, there is an escalator built in to increase over time.

Councilor Nyhan moved acceptance of the report and authorize the Co-op to move forward in the construction of a single stream recycling plant. The motion was duly seconded.

Mr. Aspell noted that just because Council votes for it doesn't mean that it is going to happen. He explained that what takes place next is the vote of other entities to vote in favor of this. He added that staff will report back to Council once they find out.

Mayor Bouley indicated that the revised project estimate cost is \$18 million and asked how much money they currently have in a fund. Mr. Presher responded that there is approximately \$13.5 million.

Councilor Keach asked that if they bonded additional monies, the surplus they have belong to the communities and questioned why it wouldn't be returned to the communities. Mr. Presher replied that it would be returned to the communities.

The motion was approved on a voice vote.

50. Report from the City Engineer requesting that the City Manager be authorized to apply for US Department of Transportation, Federal Highway Administration Transportation Investment Generating Economic Recovery grant program funds for up to two (2) capital improvement projects.

Action: City Engineer Ed Roberge provided a detailed overview of the report submitted to Council outlining the two main projects including the Downtown Streetscape Improvement Project and Phase III of Langley Parkway and listed other projects considered. In closing, he stated that staff is looking for two things this evening: 1) authorize the City Manager to participate in this program; 2) feedback or a decision on to whether to apply for one or two projects or a third.

Councilor Blanchard noted that it indicates that this is for surface transportation and questioned whether this excludes bridges. Mr. Roberge responded that, no, it doesn't explaining that a number of bridge projects were included in previous rounds.

Councilor Blanchard indicated that she is concerned with going forward with new projects while the Sewalls Falls Bridge is deteriorating. She wondered if this money could be used. Providing an update on the Sewalls Falls Bridge, Mr. Roberge noted that the item on the agenda for a public hearing next month is appropriating the project design aspects in the FY12 program. He indicated that the Governor and Council just recently committed the funds and that it is now up to the city to appropriate their portion. The design portion is in the city's FY12 program and the construction portion is in the city's FY13 program.

Councilor DelloIacono inquired as to the time estimate for the grants. Mr. Roberge responded that the pre-applications are due October 3rd and the final applications are due by October 31st. He noted that with Council's approval this evening, staff will begin. Councilor DelloIacono asked how much staff time is spent on these applications. Mr. Roberge replied that it would take a lot of his time. Councilor DelloIacono questioned whether it's going to hurt the city to apply for two versus just one. Mr. Roberge responded that he feels that both of the projects that they are looking at right now are excellent candidates and both have different plusses and minuses. He noted that this is a tough question to answer indicating that he wants to be successful, both projects would mean a lot to this community and in previous rounds they didn't limit the number of applications.

Councilor Bouchard noted that after hurricane Irene she did call the DOT to inspect the Sewalls Falls Bridge because she was concerned about the swirling water, floating debris and the speed of water flowing under the bridge. The DOT inspected the bridge and indicated that it is fine and she stated that obviously the bridge has to be

replaced but doesn't want anyone worrying that there's a danger. She stated that she remembers reading that they wanted projects that were pretty much completed and ready to go. She noted that her concern with Main Street is that they accepted the report but wasn't sure that there was a definite plan that was agreed upon. Mr. Roberge replied that the funds with TIGER III need to be obligated by June 30, 2012 which puts the city in their FY13 timeframe. He stated that if they have a committable project they want to be prepared by that June 2012 timeframe to commit the funds, to complete the design and then program the construction right nearby. With respect to the Main Street project, Mr. Roberge explained that Council did accept the report which was a finding of the consensus review.

Mayor Bouley indicated that it is his understanding that TIGER I was for shovel ready projects; TIGER II was more of long term economic development type grants; TIGER III is a combination of the two; it's the idea of being ready but it's also looking at the long term jobs, etc. Clarifying, the Mayor noted that, although the city would be applying and all that's being asked this evening is to whether or not to agree to have the City Manager apply for these dollars and, if successful, the Council will still have to hold a public hearing for public input and Council would then decide whether or not to accept those dollars. Mayor Bouley stated that they have no agreed upon design with Main Street and he would like to see some buy in from the downtown so that they would have a piece of the game as well; he would like to see their commitment as well as these dollars and the city's dollars. Mr. Roberge confirmed that there is a long process and that there are differences in the program. He noted his agreement that this is a combination program.

City Manager Aspell stated that if the federal government was to award one of these projects and accepting and appropriating those dollars, there would also have to be the acceptance, appropriations and identification of private dollars. He added that if the city was going to contribute any of their own dollars, they would have to go through that whole process also.

Councilor Nyhan inquired as to where the Langley project is relative to the Main Street project in regards design and shovel readiness. Mr. Roberge responded that they are completing the environmental and traffic study on Langley Phase III and have also started the NEPA process stating that staff has a good confidence level with that readiness in terms of the project. He added that the environmental impacts are limited in regards to Main Street because it's just a surface transportation project which is going to limit itself to really streetscape related issues noting that it should be a straightforward process. He indicated that both projects, from a stand of readiness, are fairly equal although he would give a nod to the Langley project in terms of advance because they are already involved in the project review right now.

Councilor Nyhan moved acceptance of the report authorizing the application for the TIGER III grant funds. The motion was duly seconded.

Councilor Nyhan commented that he favored the Langley project over the Main Street project.

Councilor Coen asked that if Council votes on this motion, are they are authorizing staff to pursue two, Langley Parkway and Main Street.

Mayor Bouley noted that he was going to recommend they vote for the motion and if successful, then Council could have the discussion as to how many projects they wanted to participate in.

Councilor Nyhan's motion was approved with no dissenting votes.

Councilor St. Hilaire moved to apply for the two grants recommended within the report. The motion was duly seconded.

Councilor Stetson questioned whether staff has the time to do both of these projects. Mr. Aspell responded that if they start tomorrow, just barely for just two. If Council wants to do three, he would recommend against it because they would have to bring on additional staff.

Mayor Bouley stated that they are time consuming but there is a very specific formula for how to do this and does not require a lot of creative process.

Councilor St. Hilaire's motion was approved with no dissenting votes.

New Business

51. Communication from the Friends of Concord Crew requesting a waiver of the fees normally assessed to users of the Everett Arena facility in order to hold a regatta at their boathouse on Sunday, September 18, 2011.

Action: City Manager Aspell provided a brief overview explaining that the Concord Crew does plan to hold an annual regatta at the boathouse on city property at the Arena and they are requesting that City Council waive the fee that is associated with the use of that property. He indicated that the fee is typically \$1,850 the Concord Crew had said that in exchange for the waiver of the fee, they would agree to remove all the vegetation along the waterfront that the city doesn't have time to do. He pointed out the benefit of that would be for the public and also for the viewers of the regatta. He added that this is something that would be done just once.

Councilor Bouchard inquired whether a shoreline permit is required to remove the greenery along the river. Mr. Aspell responded that it would be nothing outside the normal action that the city would take. Councilor Bouchard asked whether there is a requirement to have a police officer present for the event and whether they are requesting to waive that fee also. Mr. Aspell replied that the Police Department has indicated that this event does not warrant a police presence.

Councilor Shurtleff moved to waive the fee in exchange for the removal of the vegetation along the waterfront by the Concord Crew. The motion was duly seconded.

Councilor McClure questioned whether they are intending on using the arena building itself. Mr. Aspell responded that they are using the grounds around it. Councilor McClure inquired whether Concord Crew feels that all the people will be able to fit within that area. Mr. Aspell responded yes. Councilor McClure stated that it is exciting that the city is going to have a regatta.

Councilor St. Hilaire questioned in regards to access to restrooms. Mr. Aspell responded that if they want access, they would have to work it out with the arena itself or they can bring in portapotties. Councilor St. Hilaire asked if there was the potential for them to have access to the building. Mr. Aspell indicated that to be correct.

Mayor Bouley seconded Councilor McClure's comments stating that this is an exciting event and will be another event to rival the Black Ice Hockey Tournament.

Councilor Shurtleff's motion passed with no dissenting votes.

Unfinished Business

52. Report from the Deputy City Manager - Community Development in response to a communication from Holly Carlson on behalf of Manchester Street businesses requesting City Council consider a zoning change to the existing sign ordinance. (4-10) (8-39) (9-48) (10-39) (11-38) (12-40) (1-53) (2-47) (3-48) (4-61) (5-68) (6-53) (7-54) (9-42) (10-44) (11-52) (12-47) (1-42) (2-61) (3-54) (4-50) (5-42) (6-65) (7-58) *(Report tabled at the September 14, 2009 City Council meeting; supplemental report submitted to Council April 12, 2010; no action taken)*

Action: Councilor Nyhan moved to remove this item from the table. The motion was duly seconded.

Councilor Nyhan indicated that he spoke with Holly Carlson from Carlson Motors and she would like this item moved forward one way or another. Councilor Nyhan moved that this item not be forwarded to the Planning Board for review. The motion was duly seconded and passed on a voice vote.

53. Resolution approving the acquisition of open space property northerly of Clarke Street, and authorizing the expenditure of up to \$11,000 from the Conservation Fund for this purpose, as approved by the Conservation Commission; together with report from the Conservation Commission. (5-10) (6-54) (7-55) (8-40) (9-43) (10-45) (11-53) (12-48) (1-43) (2-62) (3-55) (4-51) (5-43) (6-66) (7-59) *(Tabled setting this item for a public hearing at the May 10, 2010 City Council meeting)*

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

Councilor Nyhan indicated that the property has already been acquired and does not require \$11,000 from the conservation fund. Councilor Nyhan moved to not accept the money from the conservation fund. The motion was duly seconded.

Councilor McClure noted that the Conservation Commission would still be interested in developing a path or a connection to Morono Park and they have funds available that could work on that trail connection if there was interest on the part of the city in doing so. She stated that was primarily the reason that they proposed to assist the city in paying for the acquisition of the property to develop that connection to Morono Park to the neighborhood.

Councilor St. Hilaire noted that, at some point, they did receive a nice report about that whole property and that it would be nice to get something sometime in the future. Mr. Aspell indicated that staff will bring forward a report.

Councilor Nyhan's motion was approved with no dissenting votes.

Comments, Requests by Mayor, City Councilors

Councilor Shurtleff indicated that he was contacted by resident Anita Hickey informing him that the dog park now has its own website at www.concorddogpark.com.

Councilor Coen inquired whether it is possible to receive an update at the next Council meeting on the progress of the Route 3 Corridor and where the city is at with it including the costs of what was projected originally and where it is at now and if there are any increases then what is causing that. He questioned whether there has been enough time to see some traffic improvements on the phase that has already been completed; comparing accidents prior to the improvements on Fisherville Road and North State Street, especially the intersection of Bog Road and Fisherville Road and Manor Road and North State Street.

Comments, Requests by the City Manager

Referencing item 22 on the agenda, Mr. Aspell pointed out and congratulated Council, Mr. LeBrun and department heads explaining that back in 2005 the amount of encumbrances that were not secured by purchase orders was in excess of \$2 million and the goal was to reduce that over time. He stated that the goal for this year that Council set and that was agreed to was zero and it was actually achieved.

Referencing item 36, Mr. Aspell indicated that they are applying for grants for two pieces of equipment that staff believes they will get to convert part of the fleet to natural gas for the General Services Department.

Mr. Aspell informed Council that they have been able to keep the position of Traffic Safety Officer in the Police Department.

Mr. Aspell asked Mr. Baia to give Council a brief update on Concord Steam. Carlos Baia, Deputy City Manager-Development, stated that the city has obtained and fully executed a contract with South Jersey Energy which was what was needed to complete the transaction with Concord Power and Steam. He noted that as far as they can tell, everything is a go and anticipate that Concord Power and Steam will be pulling a building permit sometime in the near future. Secondly, in August, the Council authorized staff to apply for an economic revitalization zone designation for Penacook and Mr. Baia announced that Commissioner Bald of DRED approved that on August 30th. He explained that what happens is that a company that locates there, they generate new jobs and are able to apply for business enterprise tax credits and business profits tax credits in the State of NH.

Items Pulled From Consent Agenda

Referral to Community Development, Code Administration, the Planning Board and the Economic Development Advisory Committee

8. Communication from Richard Uchida, Orr & Reno, on behalf of Capital Commons LLC requesting an amendment to the City of Concord's Sign Ordinance.

Action: Councilor Bennett noted his reluctance to forward this communication indicating that he feels that this is a bad idea.

Councilor Bennett moved to not forward this communication to the intended parties of the referral. The motion was duly seconded.

City Manager Aspell indicated that the idea is to change the zoning ordinance to allow a sign to be placed on the very top of the building so that it would be visible from I-93. He noted that one of the concerns that Council has expressed in the past is the view of the downtown from the highway system and noted that the applicant understands that's what the issue is therefore that is why they are seeking this before the Council.

Councilor Nyhan agreed that Council is concerned about that view from the highway.

Councilor McClure echoed the concerns and pointed out that the time and dollars that goes into referring an item such as this to all these committees and departments can be considerable.

Councilor Bennett's motion to not refer this item passed with no dissenting votes.

Consideration of Suspense Items

Councilor St. Hilaire moved to take up the suspense items not previously advertised. The motion was duly seconded and passed with no dissenting votes.

Street Closure

9 Sus1 Street closure request from the Penacook Village Association to close Village Street, Penacook on October 22, 2011 from 9:00 a.m. to 3:00 p.m. from the north end of Bonney Street to the south end of Bonney Street, except for local traffic, for a community event.

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

Referral to the Legal Department and Parks and Recreation

9 Sus2 Communication from Louis Manias in regards to an agreement between Concord American Little League and Concord American Softball and the potential lease issues with two fields within the City of Concord.

Action: Councilor Nyhan moved to refer this item to the Legal Department and Parks and Recreation.

Councilor Stetson indicated that Mr. Manias has contacted several other Councilors about a split in the organization from the little league and softball. He noted that there is apparently an agreement with the city with the little league to use both of the fields that are involved in this referral and it appears through this split, that agreement may be questionable in the future as they are not allowed to sublet city property to another group. He stated that Mr. Manias would like an answer as to how the girl's softball should move forward to obtain the rights to the field without having to go through the little league to get it.

The motion to refer passed with no dissenting votes.

9 Sus3 Resolution authorizing the City Manager to enter into a purchase and sales agreement for the acquisition of real estate located at 5 and 11 Canal Street, Penacook, City Assessor's parcel #543P-18 and #543P-19; together with report from the Assistant for Special Projects.

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

City Manager Aspell provided a brief overview.

The motion to approve passed with no dissenting votes.

9 Sus4 Resolution authorizing the acquisition of real estate located at 5 and 11 Canal Street, Penacook, City Assessor's parcel #543P-18 and #543P-19.

Action: Councilor Nyhan moved to set this resolution for an October 11, 2011 public hearing. The motion was duly seconded and passed with no dissenting votes.

Adjournment

The time being 9:15 p.m., Councilor Stetson 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*