

Non-public meeting in accordance with RSA 91-A: 3, II (d) to discuss property acquisition to be held at 6:15 p.m. followed by non-public meeting with Legal Counsel

City Council Meeting
Minutes
September 10, 2012
City Council Chambers
7:00 p.m.

- 1. The Mayor called the meeting to order at 7:00 p.m.
- 2. Invocation by Reverend Peter Hey, Wesley United Methodist Church
- 3. Pledge of Allegiance.
- 4. Roll Call. Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Keach, Kretovic, McClure, Nyhan, St. Hilaire, Shurtleff and Werner were present. Councilors Grady Sexton and Patten were excused.
- 5. Approval of the August 13, 2012 Meeting Minutes.

Action: Councilor Kretovic moved approval of the August 13, 2012 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

6. Agenda overview by the Mayor.

-Consent Agenda Items-

Action: Councilor St. Hilaire moved approval of the consent agenda, as amended, with item 24 removed to the end of the agenda. The motion was duly seconded and passed with no dissenting votes.

Referral to the Traffic Policy Advisory Committee

7. Communication from Therese Houde regarding the Concord Area Transit bus routes.

Referral to the General Services Department

8. Communication from Debbi Roy requesting City Council waive one time rental and monthly rental fees associated with renting a hydrant meter from the City of Concord.

Items Tabled for an October 9, 2012 Public Hearing

- 9. Resolution appropriating the sum of \$80,000 and authorizing the issuance of bonds and notes for design and consultation regarding solid waste disposal options, CIP #483; together with report from the General Services Department.
- 10. Resolution appropriating the sum of \$10,000 from the Episcopal Church, Diocese of New Hampshire; together with report from the City Manager.
- 11. Resolution accepting and appropriating the sum of \$57,739.11 from the sale of tax deeded property at 8 Bradley Street and 109 Fisherville Road for the management of tax deeded property account; together with report from the Treasurer/Tax Collector.
- 12. Ordinance amending the Code of Ordinances, Title V, Administrative Code: Chapter 34, Personnel Rules and Regulations, Article 34-5, Recruitment; Section 34-5-5, Probationary Appointments; together with report from the Director of Human Recourses and Labor Relations.
- 13. Resolution adopting the National Incident Management System as the basis for all Incident Management in the City of Concord; together with report from the Fire Chief.

From the City Manager

- 14. Positive Citizen Comments.
- 15. Council meeting date calendar.

Consent Reports

- 16. Appropriation Transfer Report: August 2012.
- 17. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$6,994.53 as provided for under the preauthorization granted by City Council.
- 18. Diminimus gifts and donations report from the Fire Chief requesting authorization to accept monetary gifts totaling \$200.00 as provided for under the preauthorization granted by City Council.
- 19. Diminimus gifts and donations report from the Police Department requesting authorization to accept monetary gifts totaling \$5,327.00 as provided for under the preauthorization granted by City Council.
- 20. Preliminary Fiscal Year End 2012 results of the General Fund report from the Deputy City Manager Finance.
- 21. Report from the Treasurer/Tax Collector recommending the acceptance of debit and credit cards within the Collections Office.

- 22. Report from the Parks & Recreation Director regarding fees and charges for the 2013 season at the Beaver Meadow Golf Course.
- 23. Report from the Deputy City Manager Development concerning renovations to Eagle Square.
- 24. Report from Community Development in response to a communication from Fellowship Housing Opportunities, Inc. requesting City Council consider waiving impact fees for an affordable housing project on Jackson Street in Concord. (8-9) (*Pulled from consent by Councilor Blanchard*)

Action: Item removed to the end of the agenda for discussion.

Consent Resolutions

- 25. Resolution de-authorizing \$46,210 from the Fiscal Year 2013 Golf Fund Operating Budget; together with report from the Deputy City Manager Finance.
- 26. Resolution authorizing the City Manager, by way of the Police Department, to submit an application to the Office of Domestic Preparedness, State Homeland Security Program and Law Enforcement Terrorism Prevention Program, for grant funding of a specialized response/rescue vehicle; together with report from the Police Department.

Consent Communications

- 27. Street closure request from Intown Concord for Halloween Howl to be held on Friday, October 26, 2012.
- 28. Street closure request from the Concord Family YMCA for a "drive in" movie event to be held on Friday, September 21, 2012.
- 29. Street closure request for a neighborhood block party to be held on Sunday, September 16, 2012.

Appointments

From the Mayor

End of Consent Agenda

30. September 10, 2012 Public Hearings

A. Resolution appropriating the sum of \$110,000 and authorizing the issuance of bonds and notes for CIP #381, placement of interim cover at the Old Suncook Landfill site; together with report from General Services. (8-12)

Action: City Manager Tom Aspell provided a brief overview.

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

B. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 15, Licensing and Regulation of Businesses, Trades and Occupations, Article 15-5 Taxicabs and Taxicab Operators; together with report from Community Development – Code Administration in response to a communication from David Weeks, D & B Taxi, requesting the City of Concord amend the Code of Ordinances specific to taxi cab licensing. (5-10) (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. Resolution authorizing the City Manager to take the appropriate and necessary steps to effectuate an exchange of the Land and Water Conservation Fund restrictions within Kimball Park to allow for the expansion of the Concord Boys and Girls Club, the construction of a public parking lot, and other miscellaneous park improvements; together with a report from the Deputy City Manager for Development. (8-14)

Action: There being no Council objection, items C, D and E were read together.

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

Councilor Coen noted that there is a residence on Bradley Street and questioned whether this resident has been contacted about this project. Mr. Aspell responded that if it came before the Planning Board and Zoning Board they would have received a notice. Carlos Baia, Deputy City Manager-Development, confirmed that they had been notified and added that he believes that the applicant for the Boys and Girls Club reached out directly to that abutter.

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

D. Resolution authorizing the City Manager to amend the lease with the Concord Boys and Girls Club to incorporate a proposed club expansion and obligation on the club for winter maintenance of the public parking lot. (8-15)

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

E. Resolution authorizing the Concord Boys and Girls Club to expand its facility and to construct a public parking lot and make related public improvements within Kimball Park and to the Bradley Street right-of-way. (8-16)

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

F. Resolution authorizing the City Manager to submit an application in an amount of up to \$12,000 and to accept and appropriate grant proceeds of up to \$12,000 in Community Development Block Grant funds on behalf of Merrimack Valley Day Care; together with report from the Assistant for Special Projects. (8-17)

Action: Mayor Bouley recognized Matthew Walsh, Assistant for Special Projects, who addressed the City Council regarding this application. Mr. Walsh explained that Community Development Block Grant funds are available to municipalities for economic development, public facility and housing rehabilitation projects and feasibility studies that primarily benefit low and moderate income persons. The City of Concord is eligible to apply for \$500,000 each calendar year for public facility/housing rehabilitation, and economic development projects, as well as emergency funds. Feasibility Study funds are available for up to \$12,000 per year. Mr. Walsh further explained that the purpose of this Community Development Block Grant funding request was to authorize the City of Concord to apply on behalf of Merrimack Valley Day Care (MVDC) for up to \$12,000 to conduct facility needs assessment for its various locations within the City of Concord. Mr. Walsh noted that MVDC operates multiple locations in Concord and that the majority of their clientele are children from low and moderate income households. Mr. Walsh also noted that the application was consistent with the City's Housing and Community Development Plan as well as its Residential Anti-displacement and Relocation Assistance Plan. He added that while no relocation of persons or businesses would occur as a result of this project, he noted that should any CDBG sponsored project result in displacement of persons or businesses, the City would be obligated to following provisions of the Anti-Displacement and Relocation Plan. He noted that the plan outlines the measures they would take to find comparable, suitable housing for persons (or businesses) displaced or relocated. He further clarified that both documents are current and were recently re-adopt by the City Council. Therefore no action was required this evening concerning either plan. Mr. Walsh explained that this CDBG project conforms with to the goals and objectives of the City's Housing and Community Development Plan. Specifically, the project conforms with the plan's goal to "continue to provide rehabilitation assistance to social service agencies directly serving low and moderate income clients, to upgrade facilities, correct code violations, to improve handicapped accessibility, as well as to improve energy conservation."

Following Mr. Walsh's remarks, the Mayor opened the public hearing on the City's \$12,000 application for Community Development Block Grant funds to support the MVDC project. There being no public testimony, the Mayor closed the hearing.

G. Resolution appropriating the sum of \$450,000 and authorizing the issuance of bonds and notes for Phase 1 of liquid stream odor control improvements at the Hall Street Wastewater Treatment Plant, CIP #89; together with report from General Services. (2-14) (8-52)

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 10, 2012 Public Hearing Action

31. Resolution appropriating the sum of \$110,000 and authorizing the issuance of bonds and notes for CIP #381, placement of interim cover at the Old Suncook Landfill site; together with report from General Services. (8-12)

Action: Councilor Nyhan moved approval. The motion was duly seconded and passed 13 to 0 on a roll call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Keach, Kretovic, McClure, Nyhan, St. Hilaire, Shurtleff and Werner voting yes.

32. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 15, Licensing and Regulation of Businesses, Trades and Occupations, Article 15-5 Taxicabs and Taxicab Operators; together with report from Community Development – Code Administration in response to a communication from David Weeks, D & B Taxi, requesting the City of Concord amend the Code of Ordinances specific to taxi cab licensing. (5-10) (8-13)

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

33. Resolution authorizing the City Manager to take the appropriate and necessary steps to effectuate an exchange of the Land and Water Conservation Fund restrictions within Kimball Park to allow for the expansion of the Concord Boys and Girls Club, the construction of a public parking lot, and other miscellaneous park improvements; together with a report from the Deputy City Manager for Development. (8-14)

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

34. Resolution authorizing the City Manager to amend the lease with the Concord Boys and Girls Club to incorporate a proposed club expansion and obligation on the club for winter maintenance of the public parking lot. (8-15)

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

35. Resolution authorizing the Concord Boys and Girls Club to expand its facility and to construct a public parking lot and make related public improvements within Kimball Park and to the Bradley Street right-of-way. (8-16)

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

36. Resolution authorizing the City Manager to submit an application in an amount of up to \$12,000 and to accept and appropriate grant proceeds of up to \$12,000 in Community Development Block Grant funds on behalf of Merrimack Valley Day Care; together with report from the Assistant for Special Projects. (8-17)

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

37. Resolution appropriating the sum of \$450,000 and authorizing the issuance of bonds and notes for Phase 1 of liquid stream odor control improvements at the Hall Street Wastewater Treatment Plant, CIP #89; together with report from General Services. (2-14) (8-52)

Action: Councilor St. Hilaire moved approval. The motion was duly seconded and passed 13 to 0 on a roll call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Keach, Kretovic, McClure, Nyhan, St. Hilaire, Shurtleff and Werner voting yes.

Reports

38. Annual Appointment by Mayor and Members of City Council assigning voting member of Council to attend the Annual NH Municipal Association meeting held in November of each year.

Action: Mayor Bouley indicated that the meeting is being held on Friday, September 21st. He noted that what they typically do is make the appointment of the voting member of the Council. He inquired as to whether any Councilor would be attending the meeting. Councilor Bennett indicated that he would be in attendance. Council nominated Councilor Bennett to attend the meeting on their behalf. The motion was seconded and passed with no dissenting votes.

City Council Minutes September 10, 2012

New Business

Unfinished Business

39. 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) (*Action on this item tabled following a July 9, 2012 public hearing*)

Action: This item remains on the table.

40. Dame School Interim Use Report from the Assistant for Special Projects. (8Sus3)

Action: This item remains on the table.

Comments, Requests by Mayor, City Councilors

Councilor Keach questioned whether every town sent a member of their council to the annual association member. Mr. Aspell responded that they are invited to attend with the idea of representing the policy positions of that community to the association so the association knows how to represent the communities at the legislative sessions.

Mayor Bouley indicated that he has been asked what is needed at the polls tomorrow when registering to vote and voting. In regards to registering to vote, City Clerk Janice Bonenfant stated that any resident that are not currently registered voters would go to their appropriate polling locations. Ideally they would have a photo id with their current address that would confirm their residence but if they don't, they can bring a photo id with a piece of mail that confirms their address but if they do not have mail they can fill out domicile affidavits at the polls. She added that anyone that is currently on the checklist is going to be asked tomorrow if they have a photo id, sort of a trial run to get people used to the fact that they need photo id's beginning in November. She explained that the ballot inspectors will be keeping track of how many people do not have them and will also be handing out pamphlets on the voter id laws that go into effect in November. Ms. Bonenfant added that if residents go to the polls in November and do not have photo id's, they will have to sign affidavits attesting their identity and after that election will receive a letter from the Secretary of State's Office asking them to confirm that they really did vote in November. She further added that if people don't have a photo id in November and don't have a means to get one, they will be given a voucher to take to the DMV and that voucher will give them a free photo id to be used for voting purposes only.

Mayor Bouley indicated that this evening is Ben Leubsdorf's last meeting covering for the Concord Monitor because he will be moving to cover the State House.

Consideration of items pulled from the consent agenda for discussion

Item 24 has been pulled from the consent agenda for discussion.

24. Report from Community Development in response to a communication from Fellowship Housing Opportunities, Inc. requesting City Council consider waiving impact fees for an affordable housing project on Jackson Street in Concord. (8-9)

Action: Councilor Blanchard indicated that the City Manager has said that as a Council they cannot waive the impact fees and that they only can waive them if it involves the development in the opportunity corridor or Penacook Village because it's specifically geographically identified. She noted the difference in what they are using the property for compared with what they had been using it for and that they are only dividing up the three apartments and making five small one bedroom apartments. She noted that she feels that if they are not going to impact the schools or streets it doesn't make sense to charge them over \$5,000 in impact fees. She noted that she feels that the ordinance needs to be revisited so that impact fees for this item could be waived. She commended this agency for providing housing for the mentally ill and feels that from this point of view, they should make it as easy as possible for them.

Carlos Baia, Deputy City Manager-Development, stated that the ordinance is narrowly written and was probably written that way for a reason because when they are talking about impact fees he believes that the spirit of the ordinance is to be as neutral as possible so that everyone is treated equitably regardless of whether they are a social service agency or a developer. He indicated that the provisions that provide for relief in the ordinance deal with the predefined waiver provisions which would be opportunity corridor or in the zoning in Penacook. He stated that this property didn't fall under those provisions. He indicated that if Council wishes, staff could revisit this and potentially go to the Planning Board with this issue if they did not come to agreement with staff. He pointed out that there are three components to the impact fees that are in question: the school impact fee doesn't provide a relief provision except for senior housing; the recreation piece is not an item he feels can be applied because public space/open space is open to everyone including people with disabilities; the transportation fee is something that they can take a look at and talk to them about.

City Manager Tom Aspell stated that the way that the ordinance is written, the Planning Board has the final say explaining that the reason it was written this way was so that they cannot pick and choose who they are going to apply this to or not.

Mayor Bouley explained that when they drafted and adopted the ordinance years ago, one of the major concerns was predictability and to know up front exactly what the fees were going to be. He added that there is a way for someone, if they feel there is an issue, to challenge the impact fees. He noted that is not with the Council it is with the clerk of the Planning Board. He questioned whether an appeal had been made to the clerk of the Planning Board. Mr. Baia responded that they have discussed it and in a means to facilitate this issue he feels that they would be amenable to working with them to come to a resolution. He stated that

the ordinance itself calls for them making a request for a waiver prior to the determination of the fee and in this case it's after the determination of the fee. He stated that he and his staff is willing to work with them to see if they can come to a resolution, perhaps do a study if they want to show staff evidence that they qualify for a reduction. Mayor Bouley inquired why staff would do this for them after the determination had been made. Mr. Baia responded that it's an issue that people have brought up and in this case they are making an argument in which staff could look at trying to provide customer service.

Councilor Coen asked whether the impact fee is not being the burden on the resident/tenant but it's in the non-profit organization that owns the property. Mr. Baia indicated that to be correct.

Councilor Blanchard indicated that Paige Cannon was told to ask the Council to waive the impact fees which is why she went this route.

Following discussion in regards to Councilor Blanchard's question as to who this should be revisited by if item is referred, Mayor Bouley noted that the city does have an ordinance which is clear and has worked for 10 years and now there is a situation in which one person that has come forth after the fact. He stated that he wants everyone to be treated the same and is uncomfortable waiving these fees.

Councilor Blanchard indicated that these individuals aren't going to have any cars so it's not going to make an impact.

Councilor McClure noted that, based on the discussion, she would be uncomfortable making any kind of motion or voting for any motion that singled out this request.

Councilor McClure moved to accept the report. The motion was duly seconded.

Councilor Blanchard moved to ask the Planning Board to revisit the impact fee ordinance for possible changes. There was no second to the motion.

Councilor McClure's motion to accept the report passed on a voice vote.

Consideration of Suspense Items

Councilor St. Hilaire moved to suspend the rules to consider this suspense item not previously submitted. The motion was duly seconded and passed with no dissenting votes.

9 Sus1 Concord Power and Steam Status Report from the Deputy City Manager – Development.

Action: City Manager Tom Aspell provided a brief overview of the status report.

Councilor Blanchard asked whether there is a projection as to what the city might save on steam in the future. Mr. Aspell responded that at one time they talked about going down by 40 percent but when it came to be and they looked at the numbers, it was more like a 20 percent reduction in steam costs.

Councilor Nyhan noted that it's been indicated that they need to know sometime in the near future as to whether or not financing has been secured. He asked what the deadline was that the Council needs to know by so they can move forward. Mr. Aspell explained that Mr. Baia had set the date of September 1st and they have received word, in writing, that financing will be in place very shortly and they will be moving forward with a construction schedule. He stated that staff has asked for that construction schedule and have yet to receive that schedule. He added that, at their next meeting, the Council should make a decision as to whether or not they want staff to start looking at other options or not. Councilor Nyhan questioned as to whether there is an action that Council needs to take this evening to make a decision in October. Mayor Bouley responded that Council could simply accept the report this evening as a good update in keeping the Council informed. He stated that he feels that they will have a much better sense next month.

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

Adjournment

The time being 8:00 p.m., Councilor Bennett moved to enter into Non-public meeting in accordance with RSA 91-A: 3, II (d) to discuss property acquisition followed by non-public meeting with Legal Counsel. The motion was duly seconded and passed with no dissenting votes.

A true copy; I attest: Michelle Mulholland Deputy City Clerk