

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

City Council Meeting
Minutes
August 13, 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 Michael Lowry, East Congregational Church.
- 3. Pledge of Allegiance.
- 4. Roll Call. Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, Grady Sexton, Keach, Kretovic, McClure, Nyhan, St. Hilaire, Shurtleff and Werner were present. Councilor Patten was late. Councilor DelloIacono was excused.
- 5. The Mayor presented a resolution in recognition of the services of Fire Lieutenant Jeffrey Mellett. (7-28)
- 6. Matt Leahy, Senator Shaheen's Office.

Action: Matt Leahy indicated that Senator Shaheen has asked her staff to reach out to the different communities within the state to introduce themselves and to let communities know that they have a point of contact within Senator Shaheen's office.

7. Approval of the July 9, 2012 meeting minutes.

Action: Councilor St. Hilaire moved approval of the July 9, 2012 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

8. Agenda overview by the Mayor.

- Consent Agenda Items -

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

Referral to Community Development

9. Communication from Fellowship Housing Opportunities, Inc. requesting City Council consider waiving impact fees for an affordable housing project on Jackson Street in Concord.

<u>Referral to the Recreation and Parks Advisory Committee and Community Development - Planning</u>

10. Communication from the Making Strides Against Breast Cancer committee proposing a beautification project that would enhance the appearance of Memorial Field and raise funds for the American Cancer Society.

Referral to the Board of Ethics

11. Communication from Mayor Bouley requesting City Council refer a review of the City's Ethics Ordinance to the Board of Ethics.

<u>Items Tabled for September 10, 2012 Public Hearings</u>

- 12. 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.
- 13. 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)
- 14. 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.
- 15. 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.
- 16. 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.
- 17. 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

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Development Block Grant funds on behalf of Merrimack Valley Day Care; together with report from the Assistant for Special Projects.

From the City Manager

- 18. Positive Citizen Comments.
- 19. Council meeting date calendar.

Consent Reports

- 20. Appropriation Transfer Report: July 2012
- 21. Diminimus gifts and donations report from the Police Department requesting authorization to accept monetary gifts totaling \$1,000 as provided for under the preauthorization granted by City Council.
- 22. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$1,735.65 as provided for under the preauthorization granted by City Council.
- 23. Diminimus gifts and donations report from the Human Services Director requesting authorization to accept monetary gifts totaling \$500 as provided for under the preauthorization granted by City Council.
- 24. Diminimus gifts and donations report from the Parks and Recreation Director requesting authorization to accept monetary gifts totaling \$5,919.60 as provided for under the preauthorization granted by City Council.
- 25. Council Quarterly Priorities Report from the City Manager.
- 26. Annual Report on Leased Parking Spaces from the Parking Manager.
- 27. Semi-Annual Report of Contracted Solid Waste and Recycling Services.
- 28. Quarterly Current Use Change Tax report from the Director of Real Estate Assessments.
- 29. Report from the Deputy City Manager for Development regarding the City of Concord's participation in the Granite State Future statewide planning initiative.
- 30. Report from the City Engineer recommending that the City Manager be authorized to accept a public utility easement for the installation of a hydrant on land of Robert Angus and Angela Pitrone, located at 74 High Street, Penacook.
- 31. Report from the Traffic Operations Committee in response to a communication from Anne Clune, Concord resident, requesting a reduction in the speed limit and the installation of stop sign and speed bumps on Currier Road.

- 32. Report from the Deputy City Solicitor regarding the July 11, 2012 Board of Ethics Meeting.
- 33. Report from the Assistant for Special Projects regarding tax deeded property at 280 North State Street in Concord.
- 34. Report from the Parks & Recreation Director requesting authorization for the City Manager to enter into an agreement with the Concord SPCA to manage the dog park at Terrill Park.

Consent Resolutions

- 35. Resolution appropriating \$10,000 for the purpose of funding consulting assistance for the Citywide Community Center fundraising campaign, CIP #443; together with report from the Deputy City Manager Finance.
- 36. Resolution making a return of the perambulation of the town line between the City of Concord and the Town of Bow; together with report from the City Surveyor.
- 37. Resolution authorizing the City Manager to issue a request for proposals (RFP) to solicit redevelopment proposals from private developers for the former Allied Leather Tannery site located at 27, 31 and 35 Canal Street, Penacook; together with report from the Assistant for Special Projects.

Consent Communications

Appointments

- 38. City Manager's proposed appointments to the Building Board of Appeals. *Gerard Blanchette, Duene Cowan and Gary Purington*
- 39. City Manager's proposed reappointments to the Zoning Board of Adjustment. *Christopher Carley and Stephen Norton*
- 40. City Manager's proposed appointment to the Zoning Board of Adjustment. *Benjamin Kelley*
- 41. City Manager's appointment to the Board of Assessors. *Thomas Sargent*

End of Consent Agenda

42. August 13, 2012 Public Hearings

A. Resolution appropriating \$26,000 for the purchase of skate sharpening equipment and rental skates, and increase in other operating expenses to support the operation of the proshop at the Everett Arena; together with report from the General Services Director. (7-10) (Supplemental report submitted)

Action: City Manager Tom Aspell provided a brief overview asking that Council to go through the public hearing process and the close the public hearing. He added that staff would like to withdraw the request to bring it in-house and that tomorrow he would award the bid to the highest bidder to move forward with keeping it the way it has been but with a better quality product.

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

B. Resolution accepting and appropriating an additional sum of \$50,000 in unmatched grant funds for FY2012 from the NH Department of Safety Homeland Security Grant Program; together with report from the Fire Department. (7-11)

Action: There being no Council objection, the titles for hearings B and C were read together.

City Manager Tom Aspell provided a brief overview for both hearing items explaining that the fire staff will receive more training this year and next year than they have within the last decade which will all be funded by the federal government. He added that there is no match requirement or cost from the city.

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

C. Resolution accepting and appropriating the sum of \$280,000 in unmatched grant funds for FY2013 from the NH Department of Safety Homeland Security Grant Program; together with report from the Fire Department. (7-12)

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

D. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance, Article 28-5, Supplemental Standards Article 28-2, Zoning Districts and Allowable Uses, Section 28-2-4(j), Table of Principal Uses and Section 28-2-4(k) Table of Accessory Uses; together with a report from the City Planner in response to a request by Nicholas Wallner for consideration of a proposed beekeeping Ordinance. (7-13)

Action: City Manager Tom Aspell provided a brief overview.

Mayor Bouley opened the public hearing.

Public Testimony

Nick Wallner, Concord resident, indicated that in his research, he found that most communities throughout the country allow beekeeping. He explained that beekeeping has seen a fifty percent drop since 1950 and is an important part of society since beekeeping contributes to thirty percent of the food. He noted that concern that people

may have is relative to bee stings and explained that honeybees are very passive and if they sting you once they die unlike hornets and wasps. He asked Council to consider this proposal noting that he feels that it will be good for the community, the environment and the eco-system.

Councilor Nyhan inquired whether Mr. Wallner wears protective equipment when handling a beehive. Mr. Wallner responded yes noting that he is more concerned with his face when opening up a hive because a bee could get into one's ear or nostril and could possibly create a situation for a bee to fear for itself and sting.

Councilor St. Hilaire asked how many bees are within a hive. Mr. Wallner replied that he believes that they start out at approximately 30,000. Councilor St. Hilaire asked that, when a hive is referenced, whether this referred to the square box set up that keepers have. Mr. Wallner indicated that to be correct.

Councilor Werner asked what happens to most of the honey that is produced in these situations in terms of citizens. Mr. Wallner responded that it's for personal use explaining that there are commercial beekeepers but that this proposal is more to address the backyard industry.

Barbara Lawler, Capital Area Beekeepers Vice President, responded to the protective gear question by indicating that she wears a veil for her head because she gets very close to the bees and moves them around and it is potentially likely that she may squish one or two in which case some may get protective. She added that she does a lot of entertaining in her yard and no one has ever gotten stung by a honeybee but have had issues with wasps and yellowjackets. She spoke in favor of this proposal.

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

E. Resolution accepting and appropriating the sum of \$36,000 for FY2012 Diminimus Gifts & Donations and other diminimus items; together with report from the Deputy City Manager – Finance. (7-14)

Action: City Manager Tom Aspell provided a brief overview.

Councilor Coen questioned as to what appears to be causing this trend. Mr. Aspell responded that he believes that it's the purposeful way that the city creates public/private partnerships and that they see the return on their investment.

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

F. Resolution accepting and appropriating \$14,000 as a special revenue fund donation from the Black Ice Pond Committee and authorizing the transfer and expenditure of \$22,500 as a Capital Improvement Project for the design of a new skate house building at White

park, CIP #51; together with report from the Director of Parks & Recreation. (7-15) (Revised resolution and supplemental report received)

Action: City Manager Tom Aspell provided a brief overview explaining that they originally received a gift from the Black Ice Tournament which was going to be combined with last year's gift for preliminary design for the skate house at White Park. He indicated that HL Turner has stepped forward and agreed to provide all those services pro-bono so the money would be placed into the reserve account for construction in the future of the facility.

David Gill, Director of Parks & Recreation, indicated that even though it was a warm winter this partnership has given the city \$14,000 which is above and beyond in addition to paying all the city's bills.

Mayor Bouley opened the public hearing.

Public Testimony

Chris Brown noted that even though it was a warm winter, sponsors were able to get the exposure they wanted and teams were able to play. He noted that they look forward to the third annual tournament on January 25, 2013.

Jerry Blanchette, Senior Vice President of Architectural and Engineering Services for the HL Turner Group, stated that many of their staff members and principals have agreed that this is a great thing for them to participate in. He noted that he hopes the Council accepts their donation of their pro-bono services for architecture, structural engineering, mechanical engineering and plumbing.

On behalf of the community and City Council, Mayor Bouley thanked them for all that they have done and put into this event.

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

G. Resolution accepting and appropriating the sum of up to \$420,000 in matched Transportation Investment Generating Economic Recovery (TIGER) Grant Funds from the United States Department of Transportation, Federal Highway Administration (USDOT-FHWA) for the design of the Downtown Complete Streets Improvement Project (CIP #460) including rescinding and re-appropriating \$168,000 previously appropriated by resolution #8477, Traffic Signals and Traffic Operations Improvements (CIP #283), adopted June 27, 2011, as the local match portion of the project; together with report from the City Engineer. (7-16)

Action: City Engineer Ed Roberge provided a brief overview.

Mayor Bouley opened the public hearing.

Five Minute Public Testimony

Brent Todd, Transportation Policy Advisory Committee member, indicated that TPAC strongly supports the Main Street redesign project and the acceptance of federal funds for redesign and construction. He noted that TPAC endorses this project and believes that this project will combine and connect transportation choices in this major hub as follows: it will greatly contribute long term to the economic health of the community; the plan will allow for ADA accessibility, improved parking features, enhanced bike and pedestrian access and mobility and will improve the safety of Concord's Main Street; it will aid in the goal of increasing the number of residential units on Main Street.

Alex Vogt, representing the pedestrian sub-committee of TPAC, noted that a redesign and improvement of Main Street will enhance pedestrian safety and ADA accessibility.

Craig Tufts, chair of the bicycling sub-committee of TPAC, was present.

Mr. Todd indicated that as the city's transportation advisers they stand ready to help move this important project forward in any way the Council sees fit.

Roy Schweiker, Concord resident, noted that he wants to be sure the dollars are spent wisely noting his concern that he feels that any features that are primarily to benefit the downtown are in some way paid for by the downtown itself as compared to the city atlarge. Referencing the change to three lanes on Main Street, he indicated that the city should make sure it works, trying it now with paint, before spending dollars for something that will not work and will need to be fixed.

Allan Herschlag, Wildflower Drive, noted that what the Council accepted on July 11, 2011 was the Re-Thinking Main Street report and not a proposal for streetscape improvements. He noted his concern with allocating dollars before there has been any public input relating to this project. He indicated that this grant application is based on the Re-Thinking Main Street report in which he states that the Mayor had promised that nothing will happen without every opportunity for the members of the community to share their thoughts about this proposal. He indicated that seventy merchants had noted their concerns.

Mayor Bouley indicated that it is his understanding that the city has not spent any money on this project so far and that is what this evening is about. He clarified that tonight is the opportunity for the public to talk about whether they want to move forward or not move forward. He questioned whether this is something Mr. Herschlag would like to move forward with or not. Mr. Herschlag responded that the issue is that within the grant application it stated that the Council had voted on, approved and that a public hearing had been held. He stated that he has reservations as to how this project should move forward and what it will accomplish. He feels that improving Main Street has the potential to improve the economic status of the city.

Councilor Nyhan questioned whether or not Mr. Herschlag feels that Council should move this project forward by at least investigating it and appropriating these funds. Mr. Herschlag responded that he doesn't feel that Council should move forward this evening by appropriating the funds.

Mayor Bouley indicated that he is trying to understand Mr. Herschlag's comments in terms of where the public wouldn't have input because there is no decisions that have been made. He stated that this is the beginning and asked whether Mr. Herschlag feels that this is something that the community should go forth with tonight or not. The Mayor questioned where he feels that he is not being heard. Mr. Herschlag noted that the problem appears that they would need to move forward quickly because of the timeline as outlined within the grant and his concern is that there is not going to be a complete vetting of this project. He indicated that the grant application states that design work will start immediately and that construction will start in April 2013. He stated that he is supportive of having a discussion on this project and willing to participate in this discussion but what he is not comfortable with is having this Council vote on expending any funds until there is a comfort level of those in the community and in the downtown of how this project will go forward. Mr. Herschlag suggested that they have an open discussion about the resolution and move forward with the Main Street and Pleasant Street improvements but table any votes on funding that project until they have an opportunity to review the rest of the components of this proposal.

Jim McConaha, Concord resident, noted that he feels that Mr. Herschlag raises some good points and stated that he feels that he may have been saying that there could be a sense that there is a momentum behind a certain scheme and may not be true but that he may be expressing a fear that alternative ideas or plans may not get the same kind of consideration that is a part of this whole grand process. He stated that 2020 produced a grand scheme as to what Main Street might look like and is what people have been primarily looking at. He indicated that he feels that the public would like to hear some reassurances that alternative design schemes will get the same kind of investment to what has been presented already. He added that the process has been driven, to a large extent, by the federal funds that have been made available and that he is not any more confident than Mr. Herschlag is.

Mayor Bouley stated that this is a big project and wants people to know that no decisions have been made and what they are talking about this evening is whether they feel this is something that they should move forth with, have a public dialogue about, and try to come up with some general consensus.

Kim Murdoch, interim Executive Director of Intown Concord, explained that the mission of Intown Concord is to promote and enhance the business environment, cultural activities, housing and appearance of historic downtown and that this project is right in line with the mission of the organization. She stated that the Board of Directors are in full support of moving ahead with the project. Referencing the petition signed by seventy merchants, she stated that there were a number of merchants who signed during the Rethinking Main Street process indicating that it was very specific to potential loss of

parking spaces and that many didn't understand the scope of what it is that they were signing on for. Speaking as a resident, Ms. Murdoch noted that this project has her full support stating that Concord has a great downtown but it's not a welcoming place for people with disabilities, it's not a safe place for pedestrians, it's not an easily navigated place on a bicycle, it's not a business district maximizing its economic potential. She noted that this presents an amazing opportunity for the city to help downtown recognize its full potential.

Tim Sink, Greater Concord Chamber of Commerce, stated that he feels that this is a great opportunity for the city and for downtown. He encouraged the Council to pass this proposed resolution.

Andrew Hatch, downtown business owner, noted his support and encouraged the Council to move forward with this project.

Three Minute Public Testimony

Brent Todd noted that he feels that it is incorrect to state that there has not been any public testimony on this. He explained that there has been a multitude of public testimony and opportunities for people to speak out stating that Concord 2020 has sponsored and paid for numerous events, charettes, and design meetings. He noted his full support and endorsement of this project.

Allan Herschlag stated that he has been a strong advocate, for over thirty years, for making improvements in the downtown. He stated that one of his main concerns is that the timeline that is outlined within the grant precludes expansive discussion on many of the components. He clarified that there were seventy merchants from seventy different businesses that signed a petition having three concerns: three lanes, parking, and a two year construction period.

Mayor Bouley asked whether Mr. Herschlag had the chance to talk to any of the merchants since. Mr. Herschlag responded that he had spoken to some merchants and found that there was a willingness to move forward but there was great concern with what they perceive to be a pushing ahead with a project that they felt didn't take into consideration some of their concerns. Mayor Bouley asked whether he felt this was a bigger project for the whole community or a Main Street project. Mr. Herschlag responded that he believes it has the potential to be a community project but that the way it is being presented, is a Main Street beautification project. He indicated that he would focus on the inside of the buildings first and once a degree of success is developed, then he would work on making it prettier.

Colette Farland-Vogt, Groton Drive, noted that she is in favor of this project moving forward. She stated that she trusts the city's TPAC input on this item.

Roy Schweiker indicated that his understanding is that the city is appropriating money this year towards the rehab of Eagle Square and made a suggestion to take that money and redesignate it as part of the city's share on this project.

Tonya Rochette, Intown Concord, asked if what Council is tasked with this evening is voting on whether or not to move forward with a project aimed on gaining consensus on how to best spend an incredible gift given to them by the federal government. Mayor Bouley responded yes.

Kim Murdoch explained that she spent hundreds of hours face to face in backrooms with downtown merchants discussing the project. She stated that there was an incredible response in terms of those who wanted to be engaged in the process. She urged Council to take advantage of this and move forward.

Lenny O'Keefe, Cardinal Road, indicated that he is in favor of the city doing something to make Main Street more attractive to families.

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

August 13, 2012 Public Hearing Action

43. Resolution appropriating \$26,000 for the purchase of skate sharpening equipment and rental skates, and increase in other operating expenses to support the operation of the pro-shop at the Everett Arena; together with report from the General Services Director. (7-10) (Supplemental report submitted)

Action: Mayor Bouley asked if it the recommendation of the City Manager to table this item indefinitely so that he can move forth with the response to the RFP. Mr. Aspell indicated that to be correct.

Councilor Nyhan moved to table this resolution indefinitely. The motion was duly seconded and passed with no dissenting votes.

44. Resolution accepting and appropriating an additional sum of \$50,000 in unmatched grant funds for FY2012 from the NH Department of Safety Homeland Security Grant Program; together with report from the Fire Department. (7-11)

Action: Councilor Nyhan moved approval. The motion was duly seconded and passed 14 to 0 with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, Grady Sexton, Keach, Kretovic, McClure, Nyhan, Patten, St. Hilaire, Shurtleff and Werner voting yes.

45. Resolution accepting and appropriating the sum of \$280,000 in unmatched grant funds for FY2013 from the NH Department of Safety Homeland Security Grant Program; together with report from the Fire Department. (7-12)

Action: Councilor Nyhan moved approval. The motion was duly seconded and passed 14 to 0 with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, Grady Sexton, Keach, Kretovic, McClure, Nyhan, Patten, St. Hilaire, Shurtleff and Werner voting yes.

46. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance, Article 28-5, Supplemental Standards Article 28-2, Zoning Districts and Allowable Uses, Section 28-2-4(j), Table of Principal Uses and Section 28-2-4(k) Table of Accessory Uses; together with a report from the City Planner in response to a request by Nicholas Wallner for consideration of a proposed beekeeping Ordinance. (7-13)

Action: Councilor Nyhan moved to disapprove this proposed ordinance. The motion was duly seconded.

Councilor Nyhan noted his concern with public safety and doesn't see the need to change the ordinance so that the city allows beehives in the inner city, fifteen feet within a property line. He stated that he feels that the potential risks outweigh the benefits.

Councilor Shurtleff indicated that he had the opportunity to visit a beehive and stated that it's a very safe operation and is good for the environment. He noted that he will be voting against Councilor Nyhan's motion.

Councilor Blanchard stated that she is not in favor of the motion.

Councilor Werner indicated that he will be voting against the motion because he feels that this is a very safe activity and has a long track record of success.

Councilor Kretovic stated that she too will be voting against the motion. She indicated that the bee population is declining dramatically across the North American continent and is something that humans must have in order to have fruit and vegetables. She pointed out that if they continue to say that they want to have a substainable community for Concord this is exactly the type of ordinance they need to support.

Councilor McClure noted her agreement with Councilor Kretovic's statement.

Councilor Nyhan stated that he feels that beehives have their place but not on postage sized lots in the downtown area.

Councilor Shurtleff pointed out that the ordinance allows for a minimum of a ¼ acre lot for two hives.

Councilor Nyhan's motion to disapprove the proposed ordinance failed 3 to 11 on a roll call vote with Councilors Nyhan, Patten and Bennett voting yes. Councilors St. Hilaire, Shurtleff, Werner, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, Grady Sexton, Keach, Kretovic and McClure voted no.

Councilor Shurtleff moved approval of the ordinance. The motion was duly seconded and passed on a voice vote.

47. Resolution accepting and appropriating the sum of \$36,000 for FY2012 Diminimus Gifts & Donations and other diminimus items; together with report from the Deputy City Manager – Finance. (7-14)

Action: Councilor St. Hilaire moved approval. The motion was duly seconded and passed 14 to 0 on a roll call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, Grady Sexton, Keach, Kretovic, McClure, Nyhan, Patten, St. Hilaire, Shurtleff and Werner voting yes.

48. Resolution accepting and appropriating \$14,000 as a special revenue fund donation from the Black Ice Pond Committee and authorizing the transfer and expenditure of \$22,500 as a Capital Improvement Project for the design of a new skate house building at White park, CIP #51; together with report from the Director of Parks & Recreation. (7-15) (Revised resolution and supplemental report received)

Action: Councilor St. Hilaire moved to substitute the revised resolution submitted. The motion was duly seconded and passed with no dissenting votes.

Councilor McClure moved approval of the revised resolution. The motion was duly seconded and passed 14 to 0 on a call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, Grady Sexton, Keach, Kretovic, McClure, Nyhan, Patten, St. Hilaire, Shurtleff and Werner voting yes.

49. Resolution accepting and appropriating the sum of up to \$420,000 in matched Transportation Investment Generating Economic Recovery (TIGER) Grant Funds from the United States Department of Transportation, Federal Highway Administration (USDOT-FHWA) for the design of the Downtown Complete Streets Improvement Project (CIP #460) including rescinding and re-appropriating \$168,000 previously appropriated by resolution #8477, Traffic Signals and Traffic Operations Improvements (CIP #283), adopted June 27, 2011, as the local match portion of the project; together with report from the City Engineer. (7-16)

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

Councilor Blanchard questioned whether this money is going to be used immediately for the signaling of Main Street and Pleasant Street. City Manager Tom Aspell responded that Council had previously appropriated dollars to do that but because that project is within the scope of the overall project do not go forward and install those signals at this time but use that money for the purposes of designing the entire project.

Councilor Kretovic stated that in her former capacity as the Executive Director of Concord 2020, when she appeared before this Council and presented the Rethinking Main Street project they specifically asked the Council at that time to accept the report not to adopt a report. She indicated that it's her understanding that there is a clear difference between the

two. She added that where they are today in moving this project forward and looking at the design is that it does open up for continued public discussion on this project.

Mayor Bouley stated that he would be voting in favor of this because he feels that this is a huge opportunity for the community. He noted that he feels confident that there is going to be robust discussion about the design of what they want their street improvement project to look like downtown. He added that it's important that they look at downtown as a whole project and that it's equally important as to what is under the road as what is going to be above the road.

Councilor Blanchard inquired as to the timeframe that the city must use the dollars by. Carlos Baia, Deputy City Manager-Development, explained that the Federal Highway Administration officials as well as the officials at the Federal DOT have indicated that they would like their grant recipients to have a relatively robust commitment. He noted that staff interprets that to mean to have bid specs on a design and a contractor in place by the end of June next year. He added that the federal government's deadline is the end of September because that's the end of their fiscal year. He further explained that they need to work with other communities prior to that in case there are any issues relative to that process that could delay that.

Approval of the resolution passed 14 to 0 on a call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, Grady Sexton, Keach, Kretovic, McClure, Nyhan, Patten, St. Hilaire, Shurtleff and Werner voting yes.

Appointments by the Mayor

Reports

50. Reports from Planning and the Economic Development Advisory Council in response to a communication from John Teague, on behalf of the Concord School Board, requesting a zoning change on property owned by the School District at 139-143 Old Turnpike Road. (5-9)

Action: City Manager Tom Aspell provided a brief overview explaining that the Planning Board voted 5 to 1 not to recommend the zoning change because they felt that the school board should include the issue of providing a buffer. He suggested that Council discuss this and determine whether or not they want to set this item for a public hearing. Referencing the report, he pointed out that the school board is interested in putting that easement on the property and he feels that it may make sense to give them time to accomplish this before having a public hearing.

Councilor Bouchard moved to accept the report, not set this for a public hearing next month, and to have the school board come back with an easement that protects the residential neighborhood with the buffer. The motion was duly seconded.

Councilor McClure asked what their expectation is in regards to how the school district is going to do this; are they expecting them to meet with the adjacent landowners, work with the Planning Board or both. Mr. Aspell responded that the way he envisions it is that they work with the Planning Board and Conservation Commission to secure an easement on the property. Mr. Baia clarified that he is not sure whether it will be in the form of an easement; it could be a covenant on a deed so they may want to leave the language somewhat open. Councilor McClure noted that she would hope that the Conservation Commission would not have to be involved.

Councilor Bouchard amended her original motion to send this back to the school board so that they can work out a way so the deed or any development that occurs guarantees a buffer for that residential neighborhood. The amended motion was duly seconded and passed with no dissenting votes.

51. Status report from the City Engineer on the Sewalls Falls Bridge Replacement Project, CIP #22.

Action: City Engineer Ed Roberge provided an overview of the report.

Councilor Keach noted that it is his understanding that the existing bridge will stay open while the new one is built. Mr. Roberge responded that the preferred alternative would allow the new bridge to be constructed while traffic is still open on the old bridge.

Councilor St. Hilaire indicated that when he read the report he got the sense that a new inspection was done on the bridge and just looking at the bridge to be rehabilitated they are looking at replacing or augmenting more than half of the bridge. Mr. Roberge indicated that to be correct. Councilor St. Hilaire indicated that he wasn't sure that when Council approved this a few years ago what they envisioned as far as how much of that was going to be rehabilitated with what the price tag was. He stated that it looks like the study indicates that there is more damage here than they expected now that it was reevaluated and a few years have passed. He questioned whether there was another study done on what the price tag would be based on this new inspection. Mr. Roberge indicated that there is a number in there and he tried to outline that number that was estimated by the consultant team. He noted that the \$2.9 million exceeds what was budgeted for what they had initially anticipated for rehabilitation of the existing truss structure. Councilor St. Hilaire asked if there is some industry standard that looks at an existing bridge and says at some point there needs to be a new bridge. Mr. Roberge replied that it's a fine line between preserving a historic resource such as the truss structure bridge and the safety aspect. He stated that from his perspective he looks at safety and what is the longevity life cycle of the structure that they want to save. He stated that it's a difficult question to answer. Councilor St. Hilaire asked, with the new \$2.9 million, what's the total estimated price tag. Mr. Roberge responded that the project cost that's under agreement with the state and federal government for the funds is \$15.2 million. Referencing the \$15.2 million, Councilor St. Hilaire noted that he thought that, with the new study, it might add another \$2.9 million. Mr. Roberge replied that there were dollars that were assumed in that \$15.2 million and feels that they are closer to \$16 million. Councilor

St. Hilaire inquired as to the price tag on doing the two bridges without rehabbing the existing one. Mr. Roberge responded that the cost is between \$6 million and \$7 million for replacement.

Councilor Blanchard inquired why it was decided to put the sidewalk on the old bridge instead of the new bridge. Mr. Roberge explained that the selection of the sidewalk on downstream side connects the Fish and Game platform and a lot of the trails are all tied in to that side. He indicated that it avoided some mid-block crosswalk along Sewalls Falls Road to cross the street. He stated that if they have to look at another alternative they will have to revisit that mid-block crosswalk to get people to get to the other side. Councilor Blanchard noted that it was indicated that the state had maybe failed to do an analysis and questioned whether it would have looked different ten years ago than it does now. Mr. Roberge stated that he is not trying to suggest that the state failed at anything and stated that their part of this project was the planning study. He explained that sometimes in the planning study you sometimes include a detailed investment and they chose not to and made some assumptions in terms of rehabilitation and those alternatives. He indicated that the new information is critical and that is why they are suggesting that it be relooked at. Councilor Blanchard recalled that the city was going to get more money from the state if they rehab the old bridge. Mr. Roberge responded that when the determination was made that rehabilitation was a reasonable improvement, the Federal Highway Administration found that it was eligible for funding. Councilor Blanchard asked whether they would still fund it moving forward. Mr. Roberge stated that staff needs to review that with all of the parties.

Referring to the two alternatives, Councilor Nyhan asked what the city's portion of those project costs. Mr. Roberge replied twenty percent.

Councilor Kretovic indicated that the pedestrian subcommittee of TPAC has long had concerns about this hanging sidewalk on this truss bridge. She asked that if Council were to point staff in the direction of option two this evening, would there be an opportunity, if it doesn't work out, that they can then point staff to option one. Mr. Roberge responded that what he is finding now with the report is that it's not reasonable to consider the sidewalk on the old truss bridge anymore because it would be too cost prohibitive. He noted that they can't move forward with a sidewalk on the historic bridge and would need to minimally go back to the agencies and looking at moving the sidewalk to the new bridge and leaving the old bridge intact as best they could.

Brief discussion occurred in regards to dollar matches that were discussed a year ago.

Councilor Shurtleff inquired whether it would be feasible to save the old historic bridge using this as a pedestrian, bicycle and snowmobile crossing. Mr. Roberge indicated that is possible to do and was one of the other alternatives just to maintain this as a pedestrian bridge but there is maintenance that may cost up to \$80,000 a year to maintain that component alone. He indicated that while they would have used this as a one lane bridge and building a one lane bridge to the north of it, that would now be a two lane bridge which would have

significant impacts on those other resources. He noted that was why that alternative didn't go that far because it had too many impacts upstream for a larger bridge.

Councilor Kretovic moved to accept the load rating analysis report and authorize staff to seek an amendment to the preferred alternative design such as placing the sidewalk along the new bridge structure and request that the environmental record reflect this design change. The motion was duly seconded.

Mayor Bouley questioned whether Councilor Kretovic was recommending option two. She indicated that to be correct.

Councilor McClure noted that she supports this motion because it allows them to first see if they can stay with the preferred alternative but if staff comes back and says this isn't going to work then at that point they can open this back up again. She stated that she would hope that they can first see if they can do what they planned to do.

Councilor Nyhan indicated that he will be voting against the motion stating that he feels that option one is the better choice because they can go back and look at all the options and address them properly and hopefully come back with something more fiscally responsible.

Councilor St. Hilaire noted that he will be voting against this motion indicating that he feels that they need to look at all the options on the table. He stated that the way he remembers the whole process a few years ago is that they were about to vote on an option of replacement and at the very last minute historical and cultural resources entities came in with their own proposal for saving the bridge. He noted that with a reinspection that it may go over budget and will cost more than expected and the risk that the city takes in having this go over budget is that the state may say sorry but they did not budget that in their capital budget.

Councilor Blanchard noted her concerns with the additional costs of rehabbing that bridge based on the analysis report. She indicated that she would prefer to have the option of going back and looking at all options.

Councilor Shurtleff stated that he is concerned with the additional costs but feels that if there is any way to preserve a piece of history then it's worth the effort. He noted his support of Councilor Kretovic's motion.

Referencing the report, City Manager Tom Aspell clarified that if Council were to go with the preferred alternative it would be twice as expensive and last half the amount of time of putting in a new bridge. He stated that it makes sense to go with the first option.

Mr. Roberge noted that the City Council adopted the preferred alternative and staff is not asking them to change that tonight and what he is asking to do is to go back and look at all the alternatives and come back to Council with a recommendation.

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Councilor Bouchard asked that when looking at all the preferred options and the cost of the bridge whether the ongoing maintenance cost of each option would be included. Mr. Roberge responded yes.

The motion to approve option two failed on a voice vote.

Councilor St. Hilaire moved approval of option one. The motion was duly seconded and passed with no dissenting votes.

New Business

Unfinished Business

52. Resolution to appropriate the sum of \$200,000 and authorize the issuance of bonds and notes for construction engineering services for phase one of liquid stream odor control improvements at the Hall Street Wastewater Treatment Plant, CIP #89; together with report from General Services. (2-14)(3-50) (7-43) (Public hearing recessed at the March 12, 2012 Council meeting) (Revised resolution and supplemental report submitted)

Action: City Manager Tom Aspell provided a brief overview.

Councilor Nyhan moved to set the revised resolution for a September public hearing. The motion was duly seconded and passed with no dissenting votes.

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

Action: This item remains tabled.

Comments, Requests by Mayor, City Councilors

Councilor Coen commended the individuals responsible for the maintenance of the town pound.

Councilor Kretovic noted that the Waterman family maintains the town pound. She added that Cooper Waterman, an Eagle Scout, worked on the town pound as part of his eagle scout project.

Mayor Bouley reminded everyone of the upcoming election on September 11th and that there was still time to register to vote up until September 4th.

Mayor Bouley commended all involved in Dowtown Market Days for all their efforts.

Consideration of Suspense Items

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

8 Sus1 Report from the City Solicitor recommending the City Manager be authorized to enter into an amended agreement with the State of New Hampshire, extending the lease for the Prosecutor's Office at the 6th Circuit Court – District Division.

Action: Councilor St. Hilaire moved to accept the report. The motion was duly seconded and passed with no dissenting votes.

8 Sus2 Quarterly Pay As You Throw Status Report.

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

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

Action: City Manager Tom Aspell provided a brief overview.

Councilor Coen moved to "button it up". The motion was duly seconded.

Mayor Bouley stated that he hopes that Council doesn't choose to "button it up" this evening explaining that he would like to wait the additional month to see if somebody would come forth to potentially want to use the building.

Councilor Coen questioned that if Council voted to "button it up" and then someone approached the city within the next few weeks would it mean that they would be denied. Mr. Aspell responded that if they hadn't already done the work he would make sure that it was real and that the dollars would offset the costs that are needed. He indicated that he would inform the Council of what he is doing and that it is going to be used.

Council discussion ensued in regards to the pros and cons of "buttoning it up" immediately.

Councilor Coen withdrew his motion. The second to the motion was withdrawn.

Councilor Kretovic moved to wait until the September 10th meeting to decide on what to do with the school. The motion was duly seconded and passed with no dissenting votes.

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Adjournment

The time being 10:10 p.m., Councilor Nyhan moved to enter into non-public session in accordance with RSA 91-A: 3, II (d) to discuss property acquisition. The motion was duly seconded and passed with no dissenting votes.

A true copy; I attest:

Michelle Mulholland Deputy City Clerk