



City Council Meeting
Draft Minutes
July 11, 2011

Non-public meeting in accordance with RSA 91-A: 2, I (b) to discuss collective bargaining and a non-public meeting in accordance with RSA 91-A: 3, II - to discuss the City Manager's Evaluation to be held following the Council meeting

City Council Chambers
7:00 p.m.

1. The Mayor called the meeting to order at 7:00 p.m.
2. Invocation by Pastor Peter Preston, Gospel Light Church of God.
3. Pledge of Allegiance.
4. Roll Call. Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady, Keach, Nyhan, Patten, St. Hilaire, Shurtleff, Stetson and Werner were present. Councilor McClure was late.
5. Approval of the June 13, 2011 and June 27, 2011 City Council meeting minutes.

Action: Councilor Werner moved approval of the June 13, 2011 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

Councilor Coen moved approval of the June 27, 2011 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

6. Approval of the June 16, 2011 and the June 23, 2011 Finance Committee meeting minutes.

Action: Councilor St. Hilaire moved approval of the June 16, 2011 Finance Committee meeting minutes. The motion was duly seconded and passed with no dissenting votes.

Councilor Grady moved approval of the June 23, 2011 Finance Committee meeting minutes. The motion was duly seconded and passed with no dissenting votes.

7. New England Climate Summer - Energy & Environment Committee Presentation.

Action: Councilor Werner, Energy and Environment Committee Chair, introduced Jonathan Gregory, Energy and Environment Committee member, Bryna Cofrin-Shaw and Van Scholten, members of the New England Climate Summer Team.

Van Scholten indicated that New England Climate Summer is comprised of a group of 31 college students that are spending their summer biking around NH to connect, document and support local initiatives to reduce the use of fossil fuels as a nation. Ms. Cofrin-Shaw noted that there are six teams and for seven weeks, each team bikes around their designated region and each week the teams are in different towns/cities. She explained that their program supports local groups and helps to foster any movements that they see; they also work with local organizations, businesses and government to understand what their efforts are towards sustainability. Mr. Scholten added that they document what local communities are doing so that they can compile a report at the end of the summer on all the efforts people are doing in each of these communities.

Mr. Gregory indicated that the Energy and Environment Committee has set up a few activities for the New England Climate Summer team to get acquainted with what is going on in the city. He highlighted some of the planned activities scheduled for the team.

8. Futures Tour Presentation.

Action: David Gill, Recreation and Parks Director, indicated that the Beaver Meadow Golf Course is once again fortunate to be hosting the LPGA Futures Tournament on July 22nd through July 24th.

Ed Deshaies, golf pro and tournament director, highlighted the history and the work that goes into the tournament. He detailed the schedule of the event and how the tournament works.

Mr. Gill added that tournament information is posted on the city's website under Parks and Recreation.

9. Rethinking Main Street Presentation. (6-64) (*Communication from Catherine Yeager received*)

Action: Chris Mulleavey noted that rethinking Main Street is more than a surface beautification project, it is about making an investment in downtown to address some fundamental deficiencies and in doing so, will position Concord for success over the next 50 years. He indicated that downtown is the city's economic engine with properties representing one-quarter of the total assessed value of the entire city.

Jessica Eshleman noted that the retail storefronts are just one indicator of the health of the downtown and is one of the most visible. She indicated that it is easy to say that economic downturn is the source of the fragile side uncovered through their economic analysis though, in truth, these conditions were already here and in some cases, evident for some time. She pointed out that Concord has some very strong assets to build upon. She indicated that when a new business opens in the downtown, in order to strengthen the district, it needs to be able to draw from the broader market area and appeal to the widest consumer demographic or be surrounded by complimenting

businesses and further indicated that filling upper story spaces will do much to add vibrancy. Ms. Eshleman pointed out that during surveys; the customers of downtown voiced their concerns over the number of vacant store fronts in relation she provided feedback received from downtown businesses in regards to their economic health of their businesses. She explained the retailers voiced that their greatest concern was with parking, most noted the potential loss of parking in the North Main Street section under the proposed community consensus design; construction was another point of concern.

Jennifer Kretovic noted that Concord is familiar with streetscape projects and how they set the stage for motivating residents to then invest in the upkeep of their properties. She highlighted case study streetscape improvement communities including: Keene, Manchester and Littleton. She indicated that the resounding message that they have heard for Concord's retail business owners and the case study communities is that communication is critical and having a constant, reliable connection to our businesses will make or break this project. While gathering the baseline of economic health of the downtown, they set out to find forty retailers willing to commit to providing the voice and perspective of this important stakeholder group; 61 of downtown retailers signed on for this project and to move it forward. Noting that the estimated cost is \$7.8 million, Ms. Kretovic indicated that this figure is reasonable, feasible and uses fiscal prudence. She commented that the Rethinking Main Street project is the next logical step because it only fortifies the dollars that the city already invested and is the new thread that ties those previous investments.

Mr. Mulleavey highlighted information contained within the report on file in the City Clerk's Office.

Councilor Bouchard questioned the cobblestone pavers for the median strips noting that she is a legislator on the public works and highway committee and that there was a bill that was put forth by the ADA community asking for level walking surfaces. She asked if these cobblestones were flat. Ms. Kretovic responded that this is not a recommendation that is coming from Rethinking Main Street task force or from the Hoyle Tanner team but from an impassioned gentleman from the "Friends of Main Street" that is making a recommendation to maintain the four-lanes of travel and placing cobblestone pavers along the way so that planted medians could be added. She noted that there are a couple of issues that are presented with this design: doesn't meet the American Association of State Highway and Transportation Officials standards; it doesn't meet the standards for the manual on uniform traffic control devices.

Councilor Stetson inquired whether there was a revised estimate as to what it would cost to re-stripe Main Street for the trial period. Ms. Kretovic responded that she doesn't know that it's a revised cost explaining that the professional engineer has to represent what is the best way to go forward with striping out a test case scenario. She indicated that when he made that recommendation they anticipated that it be done in the spring. In speaking with the City Manager, she stated that he had concerns as

to what happens when fall comes months later and the paint is still there. She noted that the reality is, that based on the fiscal constraints, it should be tried for a full season.

Referencing the recommendation regarding city staff looking into grants, Councilor Stetson questioned whether staff has the time to do this. City Manager Tom Aspell replied that it would depend upon what priority Council made it.

Mayor Bouley thanked the presenters for all their hard work and commented on a well done report.

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

Mayor Bouley clarified that if Council votes in favor of the motion, they will just be accepting the report and the public would have the opportunity to comment on these items in the future.

Councilor Stetson asked if this would include the restriping trial. Mayor Bouley responded that the restriping would require an appropriation. He indicated that by accepting this report this evening, this is one of the recommendations that are being made but unless Council has a discussion with the community to make an appropriation, it doesn't happen.

Councilor Stetson clarified that he just wanted people to understand that they are not going to re-stripe until Council has further discussions with the community.

Councilor Bouchard asked that by accepting the report this evening, that no money will be expended and Council will only be accepting the report and that there will be plenty of time for the community to come forward when this is being brought forth in the future. Mayor Bouley indicated that to be correct.

The motion to approve the report passed with no dissenting votes.

- Consent Agenda Items -

Action: Councilor St. Hilaire moved acceptance of the consent agenda. The motion was duly seconded and passed with no dissenting votes.

Items Tabled for a August 8, 2011 Public Hearing

10. Resolution relative to changing the name of East Street to Canal Street in Penacook; together with report from the Deputy City Manager - Development. (3-9) (5-25) (8-38) (9-44) (10-46) (11-54) (12-49) (1-44) (2-63) (3-56) (4-52) (5-44) (6-65)
11. Resolution accepting and appropriating the sum of \$4,025 from Duprey Companies to be utilized towards the purchase of one parking kiosk to be located at 49 South Main Street and also appropriating matching funds in the amount of \$4,025 from the

Parking Fund for the City's portion of this kiosk project; together with report from the Parking Manager.

12. Resolution accepting and appropriating the sum of \$35,134 in unmatched grant funds from the United States Department of Justice, Edward Byrne Memorial Justice Assistance Grant Program, funds designated for law enforcement related programs; together with report from the Police Department.
13. Resolution appropriating the sum of \$15,371 in unmatched grant funds from the New Hampshire Department of Justice Enforcing Underage Drinking Laws Grant Program; together with report from the Police Department.
14. Resolution accepting and appropriating the sum of \$600,000 in Brownfields Cleanup Grant funds from the United States Environmental Protection Agency and also appropriating matching funds in the amount of \$120,000 from the Economic Development Reserve Fund for environmental remediation of that portion of the former Allied Leather Tannery Complex located at 27, 31, and 35 East Street, Penacook; together with a report from the Assistant for Special Projects.
15. 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 of the Planning Board on the proposed amendments to the Zoning Map of the Zoning Ordinance as contained in the Draft Changes to the City's Land Use Regulations & Development Review Procedures Part 1 prepared by the Deputy City Manager – Development.
16. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-2, Zoning Districts and Allowable Uses, and Article 28-4, Development Design Standards.

From the City Manager

17. Positive Citizen Comments.
18. Council meeting date calendar.

Consent Reports

19. Appropriation Transfer Report: June 2011.
20. Diminimus gifts and donations report from the Police Department requesting authorization to accept gifts as provided for under the preauthorization granted by City Council.
21. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$60 as provided for under the preauthorization granted by City Council.

22. Diminimus gifts and donations report from the Human Services Director requesting authorization to accept monetary gifts totaling \$700 as provided for under the preauthorization granted by City Council.
23. Quarterly Pay As You Throw Status Report from the General Services Director.
24. DRA Equalized Valuation Tax Rate Comparison Information from the Director of Real Estate Assessments.
25. Report from the Conservation Commission in response to a communication from Margaret Smith, Carter Hill Road, requesting City Council consider allowing residents to walk their dogs in municipal cemeteries December through April as well as requesting that a hunting ban on City trails be implemented April through November making it safer for residents to walk their dogs on city trails. (9-10)
26. Executive Summary Report from the Associate Engineer on the Environmental Assessment for a portion of the Concord Municipal Airport, CIP #469.
27. Report from the City Engineer recommending that the City Manager be authorized to convey a public right-of-way easement to the State of New Hampshire, located at 189 Manchester Street, and related to the construction of improvements to Manchester Street, US Route 3 Corridor South, CIP #36.
28. Report from the City Engineer recommending that the City Manager be authorized to enter into a license agreement with the property owner of 10 Tenney Street (Map 72B, Block 1, Lot 9) to maintain a garden that is located on land of the City (Map 72B, Block 1, Lot 10).
29. Report from General Services recommending the repurposing of \$35,000 raised for replacement of the concrete floor and bedding piping at the Everett Arena for Arena lobby improvements and the installation of a new scoreboard, FY2012 CIP #64.
30. Report from the Recreation Director in regards to reuse of CIP #50, Rollins Park Building, dollars to make building improvements at Memorial Field.

Consent Resolutions

31. Resolution authorizing the City Manager to submit an application to the United States Department of Justice – Edward Byrne Memorial Justice Assistance Grant Program for funds designated for law enforcement related programs; together with report from the Police Department.
32. Resolution authorizing the City Manager to apply to the New Hampshire Department of Environmental Services Revolving Loan Program for the next phase of odor control work at the Hall Street Wastewater Treatment Facility; together with report from the General Services Department.

33. Resolution authorizing the City Manager to apply for an exemption from the New Hampshire Comprehensive Shoreland Protection Act for certain areas of Penacook Village in accordance with RSA 483-B:12; together with report from the Assistant for Special Projects.
34. Resolution authorizing the City Manager to apply for funding through the Assistance to Fire Fighters Grant Program administered by the United States Department of Homeland Security; together with a report for the Fire Chief.

Consent Communications

Appointments

35. City Manager's proposed appointment to the Library Board of Trustees.
Elizabeth Mulholland

From the Mayor

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

36. July 11, 2011 Public Hearings

- A. Discretionary preservation easement application for property at 84 Stickney Hill Road; together with report from the Director of Real Estate Assessment. (6-14)

(Tape Began here) Action: City Manager Tom Aspell provided a brief overview.

Mayor Bouley opened the public hearing.

Public Testimony

Peter Pierce, 84 Stickney Hill Road, asked the City Council to accept this preservation easement.

Lorraine Pierce, 84 Stickney Hill Road, indicated that Stickney Hill is the last remaining intact agricultural community in Concord. She distributed a historical informational to Council members.

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

- B. Resolution accepting \$128,873 of an energy efficiency rebate and appropriating the sum and authorizing the expenditure of \$128,873 for energy improvements at the Water Treatment Plant, CIP #88; together with report from the General Services Department. (6-15)

Action: City Manager Aspell provided an overview.

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

- C. Resolution relative to the public highway discontinuance of a portion of Regional Drive in Concord, New Hampshire; together with a report from the Planning Board. (6-16)

Action: City Manager Aspell provided an overview.

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

- D. Resolution appropriating the sum and authorizing the expenditure of \$20,000 from the Sears Block Tax Increment Financing District fund for maintenance of landscaping and related public infrastructure associated with the Capital Commons Municipal Parking Garage; together with a report from the Assistant for Special Projects. (6-17)

Action: City Manager Aspell provided an overview.

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

- E. Ordinance amending the Personnel Class Specification Index; Human Resources Generalist; together with report from the Acting Director of Human Resources and Labor Relations. (6-18)

Action: City Manager Aspell provided a brief overview.

The Mayor opened the public hearing.

Public Testimony

Roy Schweiker noted that he feels that every time jobs become reclassified, they seem to classify so that people make more. He encouraged the Personnel Department to consider whether there are any jobs that are getting easier for taxpayer savings.

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

- F. Ordinance amending the Personnel Class Specification Index; Deputy City Clerk; together with report from the Acting Director of Human Resources and Labor Relations. (6-19)

Action: City Manager Aspell provided a brief overview.

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

- G. Ordinance amending the Personnel Class Specification Index; Library Page; together with report from the Director of Human Resources and Labor Relations. (6-20)

Action: City Manager Aspell provided an overview.

Councilor Coen inquired as to how many positions this is. Library Director Pat Immen responded a total of eight: six employees are permanent part-time and two are part-time. Councilor Coen questioned whether this is more or less than previous years. Ms. Immen replied that she believes that in past years they have had more. She noted that as employees hours have been reduced, this is one of the places in which they have taken some of those reductions.

Councilor Stetson asked how many of the Labor Grade 7 positions will be eliminated. Ms. Immen indicated that there are no employees in Labor Grade 7. Councilor Stetson questioned how many the library is authorized to have at the present time. Ms. Immen responded none. Mr. Aspell explained that they haven't budgeted for any. Referencing the report, Councilor Stetson read "but this position has remained vacant." Mr. Aspell noted that they haven't put any money into it.

Mayor Bouley asked how many positions are currently vacant. Ms. Immen indicated that there are no current vacancies.

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

- H. Ordinance amending the Personnel Class Specification Index; Parks and Recreation Director; together with report from the Acting Director of Human Resources and Labor Relations. (6-21)

Action: City Manager Aspell provided a brief overview.

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

- I. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 17, Vehicles and Traffic; Article 17-7 Rights and Duties of Pedestrians; together with report from the Traffic Engineer. (6-22)

Action: City Manager Aspell provided a brief overview.

The Mayor opened the public hearing.

Public Testimony

Roy Schweiker encouraged Council to repeal this ordinance noting that he feels that it is unnecessary, too specific and probably unenforceable. He noted that he feels that instead of treating this as a housekeeping item, this needs to be rethought as to whether the police have another way of enforcing problems with people who wander in the middle of Main Street and go back the same way. He indicated that they are trying to make a bigger downtown district that's including State Street, Storrs Street and various other cross streets and that it's legal to jaywalk on those and doesn't know why this is only for one particular segment of Main Street. Lastly, referencing the overnight parking ordinance, he noted that some Councilors were very concerned that it was too difficult for the police to enforce different laws in different parts of the city, so if the city is going to forbid jaywalking on Main Street they should want to make it citywide.

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

- J. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization; Article 1-4, Emergency Management; together with report from the City Solicitor. (6-23)

Action: City Manager Aspell provided a brief overview.

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

- K. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-4, Development Design Standards, Section 28-4-5 Development of Attached and Multi-family Dwellings, and Section 28-4-8, Planned Unit Developments; together with report of the Planning Board on the proposed amendments to the text of the Zoning Ordinance as contained in the Draft Changes to the City's Land Use Regulations & Development Review Procedures Part 1 prepared by the Deputy City Manager - Development, together with the following amendments to the Zoning Ordinance: (6-24)

Action: There being no Council objection, items K through S were read at the same time.

Carlos Baia, Deputy City Manager-Development, explained that the nine proposed amendments before Council this evening are the first batch of products stemming from the Mayor's initiative to streamline the land use regulations. He summarized and provided an overview of each of the proposed ordinances.

Referring to the changing in depth of development, Councilor Bouchard questioned, with a change on Loudon Road, could development now go wider and encroach on the neighborhoods. Mr. Baia responded that it wouldn't go any wider than what's envisioned in the master plan. He noted that what this tries to

avoid is pushing this out into very rural areas but recognizing that unless they do it where they have water and sewer, if they prohibit it as is done today, in essence you aren't going to have pockets of development in the future. Councilor Bouchard questioned that if somebody buys property along Loudon Road and then wants to go deeper, would this ordinance allow this or is staff talking development where housing versus housing. Mr. Baia responded that it is housing and that the ordinance is for attached or multi-family dwellings.

Referencing item K, permanent place, Councilor Stetson inquired whether this change would make it easier for that type of development to occur or harder. Mr. Baia replied that it would not make it harder. City Planner Doug Woodward noted that the way the ordinance is written today it only pertains to the attached and multi-family and that this actually adds the so-called planned unit developments in it. He indicated that the new ordinance would cover both types of development which is different kinds of multi-family and attached housing but in different formats. He stated that what they had problems with was trying to apply that phrase of density, what did you count and how much land area did you include with the existing houses and noted that this actually orients much more to traffic and provides the Planning Board with a range of tools to deal with traffic impacts. Councilor Stetson provided a scenario that if there is a fairly small city street with a dead end and someone wanted to do a project at the end of that street, he asked that as long as it didn't generate more than 1,500 vehicles per day then it would be acceptable. Mr. Woodward responded that it would be the total of any existing traffic plus the new traffic. He added that measures may be also imposed.

Councilor Patten referenced Drew Street and Loudon Road in which there is some land that has been cleared with an old garage still standing and questioned whether this is something that is going to be redeveloped and pushed onto Drew Street. Mr. Woodward replied that none of these changes before Council this evening changes the zoning map. He added that these are all changes to the text about how development happens. Referencing Jensens/Crestwood on Manchester Street, Councilor Patten stated that when an old unit comes out of this area they are encouraging that manufactured homes are put in there. He noted that some of these lots are not of equal size questioning whether this is going to matter in the future. Mr. Baia replied that as long as the unit goes from a standard unit to a relatively standard unit then, for the most part, should be okay. He stated that it's a different story if someone is going from a single wide to a double wide. Councilor Patten questioned whether Manchester Street will be rezoned. Mr. Baia noted that Manchester Street is currently zoned general commercial and there is a change which talks about relocating parking lots from the front to the side into the rear. He noted that Manchester Street has a quite a few car dealerships with parking for the vehicles in the front so recognizing this, the Planning Board has already set forth and recommended for approval a change to the actual map that would change the Manchester Street Corridor to a corridor

with provisions for those types of dealerships so that they wouldn't be negatively impacted by this.

Referencing other car dealerships on North State Street, Councilor Coen inquired whether that would change so that they would have to remodel their lot and the display of their cars. Mr. Woodward responded that he believes that the dealerships on North State Street are not in a general commercial district. He noted that this may exist by variance or an old industrial district. He added that the general commercial district is on Fisherville Road by Thirty Pines in which there are not any car dealerships within this area.

The Mayor opened the public hearings for items K through S.

Public Testimony

Jennifer Kretovic, on behalf of the Board of Directors at Concord 2020, conveyed their appreciation for assisting with the public outreach efforts through this process to revise the zoning ordinances where appropriate. She noted that it was an excellence means to verify that the city's master plan is indeed what the community envisions for Concord. She stated that the report and recommendations before Council this evening are consistent with the message that they heard from the public. She noted their support for the recommendations.

Shawn LaFrance spoke in support, in particular, about the proposed changes in the commercial districts that will make pedestrian access and the walkability to various stores and businesses become better. He noted that the proposed zoning change that is being discussed is exactly the type of thing that creates a much more helpful environment for the residents.

Roy Schweiker noted that he feels that Council should not approve public hearing item K noting that the way that it was written originally and the way it should be amended is that no denser developments shall access through a less dense area.

Carl Soderstrom noted that he was not familiar with the term floor area ratio before this evening and the purpose behind it. He stated that he has a number of concerns about this idea that if you have a lot of a certain size then you must build a building of a certain size upon it. He indicated that this affects the cost of the building and the main issue is that it reduces flexibility. He questioned whether this included residential properties or was just for commercial properties.

Bill Norton, resident and EDAC member, indicated that the outgrowth of some of these initiatives was the perception of complexity within our regulations and what governs them is the master plan. Referencing floor area ratio, Mr. Norton stated that this is not for residential properties but for commercial properties.

Referencing lot sizes and the maximum building size, Councilor Stetson asked when defining this or the change Council is being asked to make here to floor area

ratio whether this is to define the maximum or the minimum size of the building. Mr. Norton replied that it's the minimum size of the building in which they have current regulations now as to what would limit what can be done such as height restrictions and parking which comes within the buildable area of the land. He noted that what has happened over the last 35 years are slopes, wetlands, buffers and green space requirements in which a lot is not as able to be developed to the density today as what it used to be. In reference to Mr. Soderstrom's testimony in regards to floor area ratio, Councilor Stetson noted that it sounded like Mr. Soderstrom's impression was that this tells you that you have to build a building of a certain size, which would be the maximum that would be allowable on that lot. Mr. Norton responded that he believes that the language change is to make it to the buildable area within the lot.

Roy Schweiker commented in regards to Concord 2020 noting that one of their catch phrases had been that "Concord is a city of neighborhoods" but feels that 2020 now seems to be orienting more towards downtown.

There being no further public testimony, the Mayor closed the hearings for items K through S.

- L. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-4, Development Design Standards, Section 28-4-6, Manufactured Housing Parks and subdivisions. (6-25)

Action: Public hearing for this item held with public hearing item K.

- M. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-8, Non-conforming Lots, Uses, and Structure, Section 28-8-5, Non-conforming structures. (6-26)

Action: Public hearing for this item held with public hearing item K.

- N. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-9, Administration and Enforcement Section 28-9-4, Decisions by the Planning Board. (6-27)

Action: Public hearing for this item held with public hearing item K.

- O. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-7, Access, Circulation, Parking, and Loading. (6-28) (*Public testimony submitted*)

Action: Public hearing for this item held with public hearing item K.

- P. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-2, Zoning Districts and Allowable Uses; Article 28-7, Access, Circulation, Parking, and Loading; and the Glossary. (6-29)

Action: Public hearing for this item held with public hearing item K.

- Q. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-7, Access, Circulation, Parking, and Loading. (6-30)

Action: Public hearing for this item held with public hearing item K.

- R. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Glossary. (6-31)

Action: Public hearing for this item held with public hearing item K.

- S. Ordinance amending the CODE OF ORDINANCES, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-5, Supplemental Standards. (6-32)

Action: Public hearing for this item held with public hearing item K.

- T. Ordinance amending the Code of Ordinances, Title 1, General Code; Chapter 5, Public Works; Article 5-7 Solid Waste; Section 5-7-2 (a), Solid Waste Removal Districts, to extend said District to include property located at 6 Theatre Street; together with a report from the Assistant for Special Projects. (6-33)

Action: City Manager Tom Aspell provided a brief overview.

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

July 11, 2011 Public Hearing Action

37. Resolution authorizing the Annual Appraisal of Real Estate at Market Value per RSA 75:8-b; together with report from the Director of Real Estate Assessments. (4-13) (5-11) (*Public hearings to be held in May and June; Council action to take place in July*)

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

38. Discretionary preservation easement application for property at 84 Stickney Hill Road; together with report from the Director of Real Estate Assessment. (6-14)

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

Councilor Shurtleff stated that the Pierce's property on Stickney Hill Road that they are preserving is one of the finest jobs of anyone to preserve a historic agricultural structure.

The motion to approve passed with no dissenting votes.

39. Resolution accepting \$128,873 of an energy efficiency rebate and appropriating the sum and authorizing the expenditure of \$128,873 for energy improvements at the Water Treatment Plant, CIP #88; together with report from the General Services Department. (6-15)

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

40. Resolution relative to the public highway discontinuance of a portion of Regional Drive in Concord, New Hampshire; together with a report from the Planning Board. (6-16)

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

41. Resolution appropriating the sum and authorizing the expenditure of \$20,000 from the Sears Block Tax Increment Financing District fund for maintenance of landscaping and related public infrastructure associated with the Capital Commons Municipal Parking Garage; together with a report from the Assistant for Special Projects. (6-17)

Action: Councilor St. Hilaire moved approval. The motion was duly seconded and passed with the 2/3 required votes with one dissenting vote.

42. Ordinance amending the Personnel Class Specification Index; Human Resources Generalist; together with report from the Acting Director of Human Resources and Labor Relations. (6-18)

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

43. Ordinance amending the Personnel Class Specification Index; Deputy City Clerk; together with report from the Acting Director of Human Resources and Labor Relations. (6-19)

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

44. Ordinance amending the Personnel Class Specification Index; Library Page; together with report from the Director of Human Resources and Labor Relations. (6-20)

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

45. Ordinance amending the Personnel Class Specification Index; Parks and Recreation Director; together with report from the Acting Director of Human Resources and Labor Relations. (6-21)

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

46. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 17, Vehicles and Traffic; Article 17-7 Rights and Duties of Pedestrians; together with report from the Traffic Engineer. (6-22)

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

47. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization; Article 1-4, Emergency Management; together with report from the City Solicitor. (6-23)

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

48. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-4, Development Design Standards, Section 28-4-5 Development of Attached and Multi-family Dwellings, and Section 28-4-8, Planned Unit Developments; together with report of the Planning Board on the proposed amendments to the text of the Zoning Ordinance as contained in the Draft Changes to the City's Land Use Regulations & Development Review Procedures Part 1 prepared by the Deputy City Manager - Development, together with the following amendments to the Zoning Ordinance: (6-24)

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

Councilor Nyhan indicated that he was unclear as to the impact this is going to have on some of the surrounding residential neighborhoods. He questioned whether this change makes it easier for any development to impede on existing residential neighborhoods. Mr. Baia responded that this change provides a standard that you can measure to allow for a development for areas that are zoned for development but today, under the existing provision in the zoning amendment, are not feasible to be developed despite the fact that they are zoned appropriately. He explained that what this change allows you to do is that it recognizes that the zoning is for multi-family and attached developments but provides some measures that the authority can use. Councilor Nyhan noted that, as he understands, the existing ordinance allows the development to take place and what they are doing is putting in some ways of controlling how it happens so that the development happens in a more conscientious way. Mr. Baia explained that the existing ordinance has a provision, which is in question this evening, which says if you are accessing to get to that property, going through a less dense neighborhood, then you can't develop that property. He noted that what this is trying to do is reconcile the two to say that the zoning district allows you to do this but this provision doesn't so let's create a standard that can be measured so that the property can actually be developed. He added that the master plan designated that these are the types of properties that need to be developed

otherwise the tax base won't grow. Councilor Nyhan asked if it's based upon how it's currently zoned or how it's currently being used. Mr. Baia responded that there are two elements of play here: the zoning district; and a provision added on years ago which says that if you have to access that particular area and you are going through a less dense neighborhood, then you can't do that. He noted that this creates a conflict, a contradiction. Councilor Nyhan indicated that where he is going with his question is that if it has to go through a less dense neighborhood that perhaps it was added that way that the less dense neighborhood would have to be developed before getting to that area that's zoned to kind of have a controlled growth. He noted that what he is hearing is that it has nothing to do with how that middle ground is essentially being used today, it's really how it's currently zoned. Mr. Baia indicated that this particular provision may have been a reaction to an application but in most cases the less dense neighborhoods may be neighborhoods that are already developed. He noted that there isn't any virgin land out there that's going to be developed at some point, this is existing neighborhoods and it's getting access to the next parcel. Councilor Nyhan inquired as to where the 1,500 car metric come from and why 1,500. Mr. Baia replied that he believes that the master plan has a measurement for a local street which should be a maximum of 1,500 vehicle trips per day.

Councilor Bouchard asked if this ordinance would allow what happened in the Woodcrest Heights neighborhood in which Woodcrest Drive became the access road through the single family neighborhood for a multi-unit apartment complex. Mr. Woodward responded that this was one of the cases in point noting that this one was an easier one to measure as far as the existing density. Councilor Bouchard asked whether this ordinance would make it easier for multi-family dwellings to go through single family neighborhoods to be developed. Mr. Woodward replied that it isn't taking it away, it's changing the thrust of it from a definition that they found difficult and no matter how they define it, if someone challenges it the city can end up in litigation.

Councilor Stetson noted that staff indicated that one single family unit equals ten trips a day and questioned in regards to a multi-family unit. Mr. Woodward responded that they are more in the range of six trips. Councilor Stetson indicated that widening of the travelled way, dedicated right of way and elimination of substandard road conditions and improvements to site accesses are listed as some of the things that can be done. He noted that the problem that he sees with this is that many smaller residential streets, especially dead end ones, don't have a 50 foot right of way so that they can do all these improvements questioning as to how these would be handled. Mr. Woodward responded that Parmenter Road was a good example, there wasn't a 50 foot right of way and they couldn't achieve one so they worked within the limits of the right of way that was achievable and expanded to the amount that was feasible within the limits of what they had available. Councilor Stetson stated that another problem that he has with this ordinance is that the Planning Board can take into account the opportunities for connectivity of future streets.

Councilor Nyhan indicated that staff has stated that, without this ordinance, the city could end up in litigation. He asked if there have been any legal challenges to the existing ordinance. Mr. Woodward responded that not to date probably in part because the last number of years they really haven't had developments. Councilor Nyhan asked whether staff finds the existing ordinance to be illegal. Mr. Woodward responded no explaining that it's more that somebody would have their own interpretation and bring it before a court indicating that the city's interpretation of this is wrong. Councilor Nyhan asked if, under the existing ordinance, somebody wanted to develop a multi-family dwelling passing through a lesser density area and questioned what the process would be. Mr. Woodward responded that it goes through under the language that is currently in place today under the phrase about the lesser density. He added that the two choices include: somebody can match the density or not exceed the density; or seek a variance.

Councilor Keach stated that there seems to be a lot of concern that this is going to roll over neighborhoods and create giant developments through sparsely developed neighborhoods. He asked whether it is fair to say that this isn't going to change anything other than just clarify the existing rules and any type of development can already occur beyond sparsely developed neighborhoods. Mr. Woodward indicated that under the current language you would be capped off with the density that you are passing through or you would have to go for a variance.

Councilor Bouchard asked if it would make it easier because they now wouldn't have to go for a variance. Mr. Woodward replied that it creates clarity and if the 1,500 vehicles becomes an issue, they will be looking for a variance on that.

Referencing the 1,500 vehicles, Councilor Nyhan asked if this was a city rule or a national transportation rule. Mr. Woodward replied that he believes that the 1,500 came from past master plans and was continued in to this one.

Mayor Bouley noted that the Planning Board has endorsed this amendment and asked staff to explain how this improves the Planning Board's ability to do their job. Mr. Woodward indicated that the board felt that the focus of the concern they had expressed to them was about traffic. He indicated that while people talk about density and density has often been used over the years in zoning discussions, the real thrust of it is the amount of vehicle trips that are passing by at any one time or the inherent safety issues at intersections or the disparity of pedestrians versus vehicles. He stated that they felt that this refocused on the matter that really was the crux of the issue that they were hearing and it brought forth that articulation of the measures that they could take, the traffic calming, intersection improvements, widening sidewalks.

The motion to approve passed 10 to 5 on a roll call vote with Councilors Werner, Bennett, Mayor Bouley, Councilors Coen, DelloIacono, Grady, Keach, McClure, St. Hilaire and Shurtleff voting yes. Councilors Stetson, Blanchard, Bouchard, Nyhan and Patten voted no.

49. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-4, Development Design Standards, Section 28-4-6, Manufactured Housing Parks and subdivisions. (6-25)

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

50. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-8, Non-conforming Lots, Uses, and Structure, Section 28-8-5, Non-conforming structures. (6-26)

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

51. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-9, Administration and Enforcement Section 28-9-4, Decisions by the Planning Board. (6-27)

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

52. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-7, Access, Circulation, Parking, and Loading. (6-28) (*Public testimony submitted*)

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

53. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-2, Zoning Districts and Allowable Uses; Article 28-7, Access, Circulation, Parking, and Loading; and the Glossary. (6-29)

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

54. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-7, Access, Circulation, Parking, and Loading. (6-30)

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

55. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Glossary. (6-31)

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

56. Ordinance amending the CODE OF ORDINANCES, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-5, Supplemental Standards. (6-32)

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

57. Ordinance amending the Code of Ordinances, Title 1, General Code; Chapter 5, Public Works; Article 5-7 Solid Waste; Section 5-7-2 (a), Solid Waste Removal Districts, to extend said District to include property located at 6 Theatre Street; together with a report from the Assistant for Special Projects. (6-33)

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

Unfinished Business

58. 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) (*Report tabled at the September 14, 2009 City Council meeting; supplemental report submitted to Council April 12, 2010; no action taken*)

Action: Item remains on the table.

59. 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) (Tabled setting this item for a public hearing at the May 10, 2010 City Council meeting)

Action: Item remains on the table.

Consideration of Suspense Items

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

7 Sus1 Item Tabled for a August 8, 2011 Public Hearing

Resolution accepting and appropriating the sum of \$10,075 from the proceeds of a Certified Local Government (CLG) Grant for the conduct and preparation of a survey of Concord's 19th Century Manufacturing Facilities along the South Main Street Corridor, CIP #506; together with a report from the Heritage Commission.

Action: Councilor Shurtleff moved to set this item for an August 8, 2011 public hearing. The motion was duly seconded and passed with no dissenting votes.

Adjournment

The time being 10:03 p.m., Councilor DelloIacono moved to enter into non-public meeting in accordance with RSA 91-A: 2, I (b) to discuss collective bargaining and a non-public meeting in accordance with RSA 91-A: 3, II - to discuss the City Manager's Evaluation. The motion was duly seconded and passed with no dissenting votes.

A true copy; I attest:

*Michelle Mulholland
Deputy City Clerk*