



City Council Meeting
Minutes

Tuesday, October 11, 2011

*Non-public meeting in accordance with RSA 91-A: 3, II (d) to discuss property acquisition
to be held prior to the meeting at 6:00 p.m.*

City Council Chambers
7:00 p.m.

1. The Mayor called the meeting to order at 7:00 p.m.
2. Invocation by Reverend Randy Thompson, Immanuel Community Church
3. Pledge of Allegiance.
4. Roll Call. Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady, Keach, McClure, Nyhan, Patten, St. Hilaire, Shurtleff, Stetson and Werner were present.
5. Approval of the September 12, 2011 and September 26, 2011 meeting minutes.

Action: Councilor St. Hilaire moved approval of the September 12, 2011 meeting minutes. The motion was duly seconded and passed with no dissenting votes. Councilor Nyhan moved approval of the September 26, 2011 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

6. Resolution in recognition of the services of Lieutenant J. Scott Nichols. (9-33)

Action: Lieutenant J. Scott Nichols was not present for the presentation.

7. Resolution in recognition of the services of City Solicitor, Paul F. Cavanaugh. (9-34)

Action: City Solicitor Paul F. Cavanaugh was not present for the presentation.

8. Concord Historical Society Presentation – “Crosscurrents of Change: Concord, NH in 20th Century”.

Action: Jim Milliken introduced John Milne, the editor of the history book, and Dr. Douglas Black. He noted that this book is a labor of love and a local participation project that has been ongoing for six years. He stated that this book, *Crosscurrents of Change, Concord, NH in the 20th Century*, is the latest version of history published by the Concord Historical Society. He recognized the many individuals that assisted with this book.

Councilor Coen inquired as to where these books could be purchased. Mr. Milliken responded that they could be purchased at the Chamber of Commerce, the NH Historical Society, the State House and at Gibson’s Bookstore.

9. Agenda overview by the Mayor.

- Consent Agenda Items -

Note: Items listed as pulled from the consent agenda will be discussed at the end of the meeting following unfinished business.

Councilor Grady moved approval of the consent agenda, as amended, with items 12 and 22 moved to the end of the agenda for discussion. The motion was duly seconded. The consent agenda, as amended, passed with no dissenting votes.

Referral to the Arena Advisory Committee and City Administration

10. Communication from the Granite State Roller Derby requesting a reduction of the fees normally assessed to users of the Everett Arena.

Referral to Community Development

11. Communication from Richard Uchida, on behalf of Delta Dental Plan of New Hampshire, Inc., requesting a public hearing on their request regarding the rezoning of property owned by Paul H. and Rachel G. Angwin be held in December 2011.

Item Tabled for an October 24, 2011 Public Hearing

12. Report from Mayor Bouley recommending a Proposed City Charter Amendment and Ballot Question. *(Pulled from consent by Mayor Bouley)*

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

Items Tabled for an November 14, 2011 Public Hearing

13. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing and Parking; Section 18-1-6, Parking Prohibited at all times in Designated Places; together with report from Engineering Services.
14. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing and Parking; Section 18-1-6, Parking Prohibited at All Times in Designated Places, Schedule I; South Street from Conant Drive to Carter Street at Conant (Abbott-Downing) School.
15. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing, Parking; Section 18-1-16, Handicapped Parking; and Section 18-1-17, Parking-Handicapped Legislator, Schedule XVIII, Public Spaces Reserved for Physically Handicapped; together with report from the Parking Manager.

16. Ordinance amending the Code of Ordinances, Title I, General Code, Chapter I, Government Organization, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; together with report from Code Administration.

From the City Manager

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

Consent Reports

19. Appropriation Transfer Report: September 30, 2011.
20. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$10,587 as provided for under the preauthorization granted by City Council.
21. Diminimus gifts and donations report from the Police Department requesting authorization to accept monetary gifts totaling \$4,140 as provided for under the preauthorization granted by City Council.
22. Report from the City Engineer on the progress of the US Route 3 Corridor (North) Improvement Project, CIP #35. (*Pulled from consent by Councilor Coen*)

Action: This item was removed for discussion at the end of the agenda.
23. Report from the City Engineer on the status and future of the recently acquired Elgland property at 472 North State Street.
24. Report from the City Engineer recommending authorization to expend funds collected as an advanced deposit for improvements and specified purposes associated with the Amerada Hess Express development at 175 North Main Street.
25. Report from the City Engineer recommending authorization to expend funds collected from financial guarantees for improvements and specified purposes associated with the Reserve at Stonehaven development on Sanborn Road.
26. Report from the City Engineer recommending that the City Manager be authorized to convey land to, and to acquire land from, a privately owned property on Old Turnpike Road to resolve conflicts in title to the adjacent lands; all in conjunction with the Fire Training Center Project (CIP 252).
27. Interim progress report and review of Concord Area Transit (CAT) from the Public Transportation Committee (PTC) and the Transportation Policy Advisory Committee (TPAC).

Consent Resolutions

28. Resolution authorizing the City Manager to submit applications to the New Hampshire Highway Safety Agency as outlined in its current grant program; together with report from the Police Department.

Consent Communications

29. Street closure request for the Concord Christmas Parade to be held on Saturday, November 19, 2011.
30. Street closure request for a neighborhood block party to be held on Jackson Street on Saturday, October 29, 2011.

Appointments

31. City Manager's proposed appointments to the Board of Trustees of Trust Funds.
Karen A. Levchuk and Michael Aitken
32. Mayor Bouley's proposed appointment to the Golf Course Advisory Committee.
William Veroneau

From the Mayor

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

33. October 11, 2011 Public Hearings

- A. Resolution authorizing the City Manager to enter into a Development Agreement Amendment with Capital Commons L.L.C. concerning modification of parking arrangements in the Capital Commons Municipal Parking Garage; together with a report from the Assistant for Special Projects. (9-9)

Action: Matt Walsh, Assistant for Special Projects, provided an overview.

Councilor Blanchard inquired as to the original expectation of Mr. Simchik. Mr. Walsh responded that the original expectation is that he would need at least 150 parking spaces to support tenants of his building. He noted that because of the relatively unique nature of several of those tenants in his building, it's borne out that he actually only needs 116 spaces. Councilor Blanchard questioned whether this affects the number of kiosks that was put in for public parking. Mr. Walsh responded no.

Councilor McClure noted her confusion as to how these spaces work asking whether the city is leasing them to Casey Family Services and then Casey Family Services is having people pay by the hour. Mr. Walsh explained that there are two sets of spaces on the roof; the first set include 61 spaces which will be leased spaces to Casey Family Services; the second set is 40 public spaces which are hourly spaces that any member of the public can park in. He indicated that as part of the arrangement, Casey Family Services will have the ability to get a special event permit to close

those 40 spaces of which they will pay the city a daily rate for those spaces. Councilor McClure asked whether the idea is that they would have parking that would be for special events. Mr. Walsh indicated that to be correct.

Councilor St. Hilaire questioned in regards that if another organization wants to do an event on top of the roof of the garage would that be available or does this lease prohibit anybody else from having a special event. Mr. Walsh replied that the 61 spaces would be unavailable Monday through Friday between 8:00 a.m. to 5:00 p.m. but the other 40 public spaces would be available for a special event permit and is not exclusive to Casey Family Services. Councilor St. Hilaire inquired whether these 40 spaces are in a block or randomly situated around the roof. Mr. Walsh replied that they are located in a block.

Councilor Coen asked what a special event means further questioning if it is physically at the garage or is the event inside the offices and they need the additional spaces for parking. Mr. Walsh explained that the permit that the city will make available to anybody is a permit intended to secure a number of hourly spaces for parking for an event held elsewhere.

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

- B. Resolution appropriating the sum of \$1,380,000 for the purpose of design, right-of-way acquisition and permitting for the Sewalls Falls Bridge replacement project, CIP #22, including accepting and appropriating \$1,200,000 in US Department of Transportation, Federal Highway Administration Bridge Aid Funds, and authorizing the issuance of bonds and notes in the amount of \$180,000; together with report from the City Engineer. (9-10)

Action: City Engineer Ed Roberge provided an overview as outlined within the report.

Referring to the budget hearings held in June, Councilor Nyhan indicated that Council asked the question about how long the bridge would last if it wasn't improved or wasn't replaced and it was indicated that its life was being measured in months and no longer years. He noted that with the state pushing the funding of the project out to 2016 what sort of a timeframe are they looking at and what are the impacts of the potential monies going away. Mr. Roberge responded that it's hard to say the impact in terms of its condition and as far as the money going away; he feels that the federal commitments are in place. He explained that what's up for debate right now is what year do those funds become obligated for expenditure. He noted that it's critically important to start the project as suggested this evening with this resolution but it's also critically important that they keep the pressure on the state. Mr. Roberge stated that they question the structural integrity of the bridge inasmuch as the longer they wait, the more expensive it will be and the potential of additional down postings or eventual closure. He indicated that it is hard to tell where they stand right now but every day that goes by isn't improving the condition of the bridge.

Referencing a meeting last week, Councilor Blanchard asked if it was felt that the state was more receptive when they found out that the city was about to appropriate the money and start into the design phase. Mr. Roberge noted that he feels that they took note and are certainly aware of the city's timetable and want to respect this as much as they can.

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

- C. Resolution accepting and expending the sum of \$9,520 for Energy Efficiency and Conservation Strategy Improvements and to install solar domestic hot water systems at the Broadway, Central and Manor Fire Stations, and the Hall Street Wastewater Treatment Facility, CIP #325; together with report from the Purchasing Manager. (9-11)

Action: City Manager Tom Aspell provided a brief overview.

Councilor Werner, Energy and Environment Advisory Committee, noted that he feels that this is a great opportunity and that the city will be visible in the community in terms of saving energy and impact on the environment.

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

- D. Ordinance amending the Code of Ordinances, Chapter 18, Parking Schedules; Canal Street; together with report from the Legal Department. (9-12)

Action: City Manager Tom Aspell provided a brief overview.

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

- E. Resolution appropriating the amount of \$9,000 to support the mission of the Concord Public Library, including adult and children's programming, advertising, and an outdoor bench; together with report from the Library Director. (9-13)

Action: City Manager Tom Aspell provided a brief overview.

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

- F. Ordinance amending the Personnel Class Specification Index, adding the Position of Water Conservation Technician; together with reports from the Director of Human Resources and Labor Relations and the General Services Director. (9-14)

Action: City Manager Tom Aspell provided a brief overview.

Mayor Bouley opened the public hearing.

Public Testimony

Roy Schweiker noted his concerns that public input should be asked for first rather than afterward explaining that he believes that this position was advertised over a month ago. He asked whether

Council should have approved this first. He further noted that the public is being asked to come to a public hearing but the decision has already been made.

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

- G. Ordinance amending the Code of Ordinances, Personnel Rules and Regulations, Bereavement Leave; together with report from the Director of Human Resources and Labor Relations. (9-15)

Action: City Manager Tom Aspell provided a brief overview.

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

- H. Resolution approving the acquisition of an executory interest in a conservation easement on open space property northerly and southerly of Stickney Hill Road, as approved by the Conservation Commission; and affirming the issuance of \$340,000 in bonds or notes under resolution #7661 of the City Council, adopted on September 13, 2004; together with a report from the Conservation Commission. (9-16) (*Public testimony submitted*)

Action: Christopher Morgan, Conservation Commission Chair, spoke on behalf of the proposed acquisition of a conservation easement on what is known as the Maplewood Farm on Stickney Hill Road. He noted that, under the terms of the easement, the land would remain in private ownership and the landowner would pay taxes in the future. He indicated that Five Rivers Conservation Trust would hold the easement and the city would hold an executor interest, secondary interest to enforce the conservation easement. He explained that the purpose of the private ownership in the conservation easement is to allow the farm to remain in private hands forever and remain in farming. He added that thoughtful consideration was given to this project and to the request that they are making and urged Council to support this request.

Jim Owers, Conservation Commission Vice Chair, explained that the reason this property is becoming available is due to the death of the prior owner. He indicated that the property was appraised at \$1.14 million so the proposal that they started working with to try to get that price down to what they actually needed and the conservation area that they are proposing is 76 acres which excludes a four acre house lot which has the barn and various buildings on it. The price for the conservation easement, which is the 76 acres, is \$680,000. He provided a detailed explanation of the funding as outlined within the report.

Councilor DelloIacono asked for some background on the Five Rivers Conservation Trust. Mr. Morgan responded that it's a local land trust which is a private non-profit membership organization that has been expanded to be more of a regional organization. He noted that it is very common for a city or a public entity to work with a private non-profit land trust on a land protection project. He stated that the board members and staff have been able to commit significant amount of time to negotiate with landowners answering their questions and discussing any concerns they have. He added that their formal role is to hold the legal easement and to have the primary responsibility for enforcing the terms of the easement.

Councilor Bennett asked whether they had a vision as to how much land they eventually want to put in conservation. He pointed out that the city has 22.28 percent of property as open space, either in protected state land, privately owned or city protected space; there is 40.5 percent of the city's property in current use. He added that 26.2 percent of property is tax exempt and do not pay property taxes. Mr. Owers replied that it will sort of take care of itself because the bond will be exhausted. He stated that there is not a percentage or number that he can give stating that he can say that there are parcels that they are definitely interested in but it all depends upon what the landowners wants to do.

Councilor Keach inquired as to the stewardship fees questioning whether this is a percentage of the sale price. Mr. Morgan responded that it is typically \$10,000 to \$15,000. Councilor Keach asked whether this fluctuated depending on the size of the property or is this consistent. Mr. Owers responded that, in this case, it has more to do with the size and complexity of the project itself.

Referencing the property being utilized properly, Councilor Coen questioned who pays for this going forward asking whether this is a one-time payment or will a percentage or payment need to be paid. Mr. Morgan responded that this is a one-time payment as part of the acquisition. Councilor Coen asked what the amount of the property tax is that is being paid on this land. Mr. Owers indicated that it was approximately \$9,700 noting that this wasn't going to change because the land that is going to be conserved is all in current use; the land that is going to be conserved is \$400 and the homestead piece is exempted so that will continue to be on the tax rolls.

The Mayor declared the hearing open.

Public Testimony

Jay Haines, Five Rivers Conservation Trust Executive Director, explained that there was a hidden dilemma with this particular property, if the farm was protected what about the neighborhood parcels and what would keep them from developing. He indicated that they were thinking the same way and each one wanted to conserve their respective properties. In addition to working on the Maplewood Farm easement, Five Rivers has assisted the community of neighbors and their efforts to assure that the project is successful. He stated that the Board of Five Rivers respectfully requests Council's approval of the bond proposed before them this evening.

Roy Schweiker indicated that he doesn't disagree with the concept that this is a fine piece of property but feels that they are paying a high price for it. He noted that he feels that anytime the Conservation Commission came in with an appraisal that the city's Assessing Department should be asked how much they agree with the appraisal. He noted that as he figured, the city's assessment on the land is somewhere in the area of \$300,000.

Jim Monahan, Oakmont Drive, spoke of the recreational value of this part of the city and the value of keeping it in the rural nature that it is.

Jonathan Gregory, 11 Washington Street, representing Green Concord the Business Alliance, indicated that they saw the financial burdens on the city and officially announced the fundraising campaign that is occurring from now to the holiday season at all of their locations.

Hope Butterworth, Stickney Hill, noted that if Maplewood Farm is preserved she will donate a conservation easement on her farm.

Peter Cowan, Stickney Hill, noted his support of this project. He indicated that this not only benefits the neighborhood but also the whole community.

Bill Glahn, Coventry Road, spoke in support of this project.

Micheline Dufort, Millstone Drive, noted her support of this proposed project.

David Parker, Warren Street, asked that Council support this proposed project.

John Frasier, Millstone Drive, spoke of the nature in the area and asked for Council's support.

Ken Smith, Millstone Drive, spoke of open areas for the youth of the city and encouraged Council's support.

Dick Lemieux echoed the support in purchasing this conservation easement and encouraged Council to approve the bond.

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

- I. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-2, Zoning Districts and Allowable Uses; together with report from the Legal Department. (9-17) (*Housekeeping item*)

Action: City Manager Tom Aspell provided a brief overview.

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

- J. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; together with report from the Legal Department. (9-18) (*Housekeeping item*)

Action: City Manager Tom Aspell provided a brief overview.

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

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

Action: Matt Walsh, Assistant for Special Projects, provided an overview as provided within the staff report.

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

October 11, 2011 Public Hearing Action

34. Resolution authorizing the City Manager to enter into a Development Agreement Amendment with Capital Commons L.L.C. concerning modification of parking arrangements in the Capital Commons Municipal Parking Garage; together with a report from the Assistant for Special Projects. (9-9)

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

35. Resolution appropriating the sum of \$1,380,000 for the purpose of design, right-of-way acquisition and permitting for the Sewalls Falls Bridge replacement project, CIP #22, including accepting and appropriating \$1,200,000 in US Department of Transportation, Federal Highway Administration Bridge Aid Funds, and authorizing the issuance of bonds and notes in the amount of \$180,000; together with report from the City Engineer. (9-10)

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

Councilor Nyhan noted that recently they had heard that the federal money may not be passed on to the city to execute the construction of this project. He indicated that when he saw this on the agenda it really struck him that there is the potential that they may spend money on a project that is never going to get built. He stated that there is also the realization that if they don't design the bridge there is no chance whatsoever that this is ever going to take place. To inform the public, he feels that it is important that they design the bridge whether it gets built in 2013 or 2017 and that in order to keep this project going, the city needs to move forward.

Mayor Bouley noted that he doesn't feel that the money is going away. He indicated that he was at the meeting Monday night at the hearing and felt that Mr. Roberge did an excellent job in representing the city and talking about the need to make sure that this project stays up high on the states priority list. He feels that this is more than a hope in his mind and is an absolute necessity to move forward on this project.

Councilor Nyhan indicated that the way he understands this is that the money is not being moved forward so that they can do this project sooner, it's not being currently proposed to be kept in the year in which it was originally intended and at least tentatively right now it's being pushed out a couple of years.

Mayor Bouley noted that as proposed, this is true but no final decision has been made. He strongly encouraged the community to talk to their Executive Councilor and let them know that this is an important project.

Councilor St. Hilaire stated that a few months ago the state was saying that this project may not even happen period and they were fortunate enough to get it back on the agenda and went through the Council so these funds were approved so obviously the state has a commitment to the project. He explained that they are currently having hearings across the entire state because there is a pool of money and what Concord is doing is competing against communities across the entire state. He indicated that federal funds are available as a pass through but the city is competing with other projects around the entire state.

Councilor Bouchard clarified in regards to the DOT pushing it out not because they want to but it's an absolute lack of funding. She indicated that Executive Councilor St. Hilaire is advocating for the bridge but we, as a state, are definitely underfunded which means that the city is getting less.

Councilor Blanchard noted that a key component to this is the detailed structural analysis.

Mayor Bouley stated that he hopes Council supports this and feels that this is a positive step.

The motion to approve passed 15 to 0 with the required 2/3 vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady, Keach, McClure, Nyhan, Patten, St. Hilaire, Shurtleff, Stetson and Werner voting yes.

36. Resolution accepting and expending the sum of \$9,520 for Energy Efficiency and Conservation Strategy Improvements and to install solar domestic hot water systems at the Broadway, Central and Manor Fire Stations, and the Hall Street Wastewater Treatment Facility, CIP #325; together with report from the Purchasing Manager. (9-11)

Action: Councilor Nyhan moved approval. The motion was duly seconded and passed 15 to 0 with the required 2/3 vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady, Keach, McClure, Nyhan, Patten, St. Hilaire, Shurtleff, Stetson and Werner voting yes.

37. Ordinance amending the Code of Ordinances, Chapter 18, Parking Schedules; Canal Street; together with report from the Legal Department. (9-12)

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

38. Resolution appropriating the amount of \$9,000 to support the mission of the Concord Public Library, including adult and children's programming, advertising, and an outdoor bench; together with report from the Library Director. (9-13)

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

39. Ordinance amending the Personnel Class Specification Index, adding the Position of Water Conservation Technician; together with reports from the Director of Human Resources and Labor Relations and the General Services Director. (9-14)

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

Chip Chesley, General Services Director, responded to the question posed during public testimony explaining that the advertisement that he believes was being referred to was for a customer service representative. Mr. Chesley stated that proposed position does not currently exist and that they have not done any recruiting.

Mr. Aspell explained that the city has a process in which he has to approve every position before it moves forward and that it is a multi-step process so that only positions that absolutely have to be filled are filled.

Councilor Shurtleff asked for clarification for the need for the person applying for this position have a Class B commercial license. Mr. Chesley explained that what they have done for the last several years for many AFSCME positions is to make that a requirement so that the organization has additional depth in that area to provide more resources if needed.

The motion to approve passed with no dissenting votes.

40. Ordinance amending the Code of Ordinances, Personnel Rules and Regulations, Bereavement Leave; together with report from the Director of Human Resources and Labor Relations. (9-15)

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

41. Resolution approving the acquisition of an executory interest in a conservation easement on open space property northerly and southerly of Stickney Hill Road, as approved by the Conservation Commission; and affirming the issuance of \$340,000 in bonds or notes under resolution #7661 of the City Council, adopted on September 13, 2004; together with a report from the Conservation Commission. (9-16) (*Public testimony submitted*)

Action: Councilor Shurtleff moved approval of the resolution approving the acquisition of a conservation easement on the Stickney Hill property through the issuance of a bond. The motion was duly seconded.

Councilor St. Hilaire noted that one of the benefits of this property is that there would be some public use out of it so that it's not just an easement just for the neighbors. He stated that he wanted to make this statement so that, in the future, people make sure that there is something written into that easement to allow for the passive public use for the community.

The motion to approve passed 14 to 1 on a 2/3 vote with Councilors Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady, Keach, McClure, Nyhan, Patten, St. Hilaire, Shurtleff, Stetson and Werner voting yes. Councilor Bennett voted no.

42. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; Article 28-2, Zoning Districts and Allowable Uses; together with report from the Legal Department. (9-17) (*Housekeeping item*)

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

43. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance; together with report from the Legal Department. (9-18) (*Housekeeping item*)

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

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

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

Councilor Shurtleff pointed out that at Saturday's meeting of the Penacook Village Association, the association endorsed the acquisition of this property.

Councilor Stetson indicated that these types of resolutions usually have a maximum dollar figure that can be spent and that there is not one within this resolution.

Mr. Walsh explained that the reason why this one is a little different is because all the funds that are necessary have been previously appropriated and are available in a project budget.

Mr. Aspell added that if Council chooses they can put in a dollar amount.

Councilor Stetson moved to amend the resolution to have a maximum of \$99,000. The motion was duly seconded and passed with no dissenting votes.

The motion to approve, as amended, passed with no dissenting votes.

Appointments by the Mayor

Reports

45. Report from the Treasurer/Tax Collector regarding the acceptance of debit and credit cards.

Action: Brian LeBrun, Deputy City Manager-Finance, explained that this is an option for customers and is not something that someone has to do but is an option for the customers. He noted that there is no additional cost to the city so any customers that chose to use credit cards would have to pay a fee associated with it and does not tax the rest of the community that doesn't choose to use a credit card.

Mayor Bouley noted that he reads this as a work in progress. Mike Jache, City Treasurer, indicated that to be correct explaining that VISA has some strict guidelines, VISA regulations state that a convenience fee cannot be charged at point of sale at the counter, except for property taxes. A convenience fee for VISA cannot be charged for motor vehicles or utility payment. Mayor Bouley asked how staff would recommend proceeding. Mr. LeBrun replied that what they would like to

suggest is that they start slowly taking credit cards at the counter and proceed that way. Once that was working well, then staff would look at doing it online and move forward slowly.

Councilor DelloIacono pointed out that there may be some confusion if the city can accept VISA online but not at the counter and can pay with a MASTERCARD and DISCOVER at the counter and online. He suggested cutting VISA out all together so as to ease any confusion to the customer. He noted that his experience is that when you take VISA you can't dictate to take VISA online but not at the counter. Mr. Jache indicated that there was a VISA representative at a conference he attended and has been in touch with this person every few months just to ensure that what staff was presenting was correct. He stated that the biggest hurdle in not coming to Council sooner with this is the VISA piece.

Councilor Blanchard inquired as to whether the city assumes the expense of taking credit cards further asking what the percentage that it would cost the city is. She noted that there may possibly be fewer people in arrears on their taxes so in the long run it would behoove the city to do this and accept the cost of it. Mr. Jache explained that it would cost the city, at ten percent paid by credit cards, \$216,000 per year. Councilor Blanchard asked if it costs the city ten percent. Mr. Jache responded that if ten percent of that was paid by credit cards it would cost \$216,000. Councilor Blanchard inquired as to the percentage paid on each transaction. Mr. Jache responded 2.4 percent. Councilor Blanchard asked if getting taxes paid in a timely manner would make up for this. Mr. LeBrun responded that it would not make up for the additional charges that the city would incur by taking the credit cards. Mr. Jache added that it does add an option for those to pay who are delinquent.

Councilor Stetson stated that since all the money goes into one area called the general fund if you allowed someone to use a VISA card and could not collect the fee, would that cost then be passed on to the taxpayers in general. Mr. Jache indicated that to be correct. Councilor Stetson asked if this would be a cost shift for the convenience of a few. Mr. Jache and LeBrun indicated that to be correct.

Councilor Patten noted that he is pleased that this is being considered because he pays by debit card all the time. He inquired in regards to American Express. Mr. Jache explained that American Express takes 3 to 4 days for those transactions to clear and causes a lot of confusion for monthly bank reconciliation for the Finance Department.

Councilor Nyhan questioned the number of walk-in customers on a monthly basis. Mr. Jache responded that he is not sure of that number at this time. Councilor Nyhan asked how many VISA card users there are as compared to MASTERCARD. Mr. Jache indicated that VISA has 60 to 70 percent of the market share; some of the other studies he has looked at indicate the average American has four credit cards with NH and NJ having the largest in which each individual having ten or more credit cards. Councilor Nyhan asked whether the costs justify the convenience for those few individuals. He asked whether consideration should be given to electronic checks which don't incur any fees. Mr. Jache explained that is available today for anybody that has online banking from home. Councilor Nyhan noted that he doesn't know what the exact costs are to support this but does the cost justify the convenience to that limited number of people that would benefit from it. Mr. LeBrun responded that there isn't much of a cost to the city for some of the set up items; for the actual transaction costs these will be borne by the individuals who use the cards and not the city or others that don't use the card. Councilor Nyhan noted that he was referring to comments that each day balancing required additional steps for reconciliation. Mr. Jache replied that they haven't put a cost to

that noting that if they take credit cards, they would start with the Collections office to find out the time taken for reconciliation before going out to other departments that are interested.

Referencing electronic checks, Councilor St. Hilaire indicated that it was stated that there are no additional costs which he assumes staff meant to the city because there is a convenience fee charged to the customer. Mr. Jache clarified that if someone is using their own banking service and goes online to set up vendors to pay there is no cost to them at all. Councilor St. Hilaire noted that if one went to the city's website to pay they would be charged a convenience fee. Mr. Jache indicated that to be correct. Councilor St. Hilaire pointed out that the numbers indicate 25 percent users as an estimate but that number could be higher in time. Councilor St. Hilaire questioned whether the State of NH DMV accepts charge cards. Mr. Jache responded yes indicating that they charge a \$5.00 convenience fee. He explained that the city is currently on the state's program and from the city's website there is a link to the program so somebody can pay by credit card online. Councilor St. Hilaire asked whether it would be worth it to check with the state to find out how many people pay by credit card as opposed to check or cash to see what the percentage is before the city moves ahead with the program; getting numbers from other government agencies. Mr. LeBrun replied that staff can do that.

Councilor Coen noted that he feels that it is important that the city pursue this. He inquired as to what they are looking at for payment. Mr. Jache answered that they are looking to start with property taxes, motor vehicle and utility payments. He stated that Planning and Code Administration are looking as well at accepting credit cards. Mr. LeBrun added that the intent is to be able to offer credit card usage in all the departments in the city.

City Manager Aspell indicated that 52 percent of all the revenue that comes through the kiosks are parking cards and credit cards. He noted that the purpose of the Fiscal Policy Advisory Committee bringing this to the Council was because they looked at it and based on what VISA rules are and credit card company rules, there is no perfect solution; FPAC wrestled with this and felt they should share this information with the Council because this is something that the Council wanted. He suggested that this go back to FPAC to gather this additional information and then it can be brought back to Council.

Councilor Stetson pointed out that the state's system collects the user fee and can accept VISA. Mr. Jache clarified that they can charge in online but cannot charge it at the point of sale, at the counter. Mr. LeBrun further clarified indicating that they can for just taxes.

Councilor DelloIacono noted his agreement with sending this back to FPAC. He asked that they consider the impact with accepting one card one way and not another is going to be difficult for staff and confusing for customers. He suggested moving forward with MASTERCARD and DISCOVER.

Councilor Bennett moved to refer this back to the Fiscal Policy Advisory Committee. The motion was duly seconded.

Councilor Nyhan requested the cost estimate associated with staff time to support this.

The motion was approved on a voice vote.

46. Presentation by the Assistant for Special Projects concerning result of due diligence for acquisition of property located at 10 Prince Street. *(No written report submitted)*

Action: Matt Walsh, Assistant for Special Projects, distributed a detailed outline and provided an overview of his distribution. This detailed outline is on file within the City Clerk's Office.

Referencing page eight, Mayor Bouley indicated that the question before Council this evening is providing some direction to the City Manager and staff as to whether or not to pursue the closing.

Councilor Nyhan indicated that he likes the idea of acquiring the property because it creates a lot of opportunity for the city moving forward. He noted that at this point he is not in favor of options one or two and feels that option three is the most viable.

Councilor DelloIacono made the motion to move forward with the purchase of the property. The motion was duly seconded.

Councilor Keach inquired as to when the Human Services Department needs to be out of their current location. Mr. Walsh responded October 2, 2012.

Councilor Stetson pointed out that it indicates that the preferred option can wait until the November meeting. He asked whether it has to be made in November. Mr. Walsh replied that it doesn't have to be made in November but stated that October 2nd isn't that far away so there has to be a decision made in the very near future.

The motion to purchase the property passed with no dissenting votes.

Comments, Requests by Mayor, City Councilors

Councilor Nyhan referenced item 27 and pointed out that the cross town route that was discussed during the budget hearings which was slotted for July implementation has yet to occur.

Councilor Coen indicated that there is new ice at the arena and that the lobby has been refurbished.

Councilor Shurtleff reminded everyone that October 22nd is National Make a Difference Day and in the Village of Penacook they have been meeting at 9 am and working until 3 pm at the intersections of Bonney Street and Village Street to clear the debris and trash along the historic granite wall.

Councilor Patten reminded everyone that plans are underway for the 25th Annual Christmas Tree Lighting. He referenced the holiday parade within the Council Packet. He announced that a Concord Firefighter is going to be honored at the State Grange Convention as firefighter of the year.

Consideration of items pulled from the consent agenda for discussion

Item 12 and 22 have been pulled from the consent agenda to be discussed following unfinished business items on the agenda.

Item Tabled for an October 24, 2011 Public Hearing

12. Report from Mayor Bouley recommending a Proposed City Charter Amendment and Ballot Question. *(Pulled from consent by Mayor Bouley)*

Action: Mayor Bouley indicated that what he is asking is having a meeting on October 24th and the reason he is asking for Council to not wait until the November meeting is due to what is going on in regards to the upcoming primary and not knowing when it will be held. He explained that in order to place a charter question on the ballot for the primary, certain timeframes need to be met. He noted that this public hearing would put a question before the voters as to whether or not they wish to have the city's ward lines, every ten years, to be placed in the city's ordinance as opposed to going through the charter process.

Referencing the proposed amendment, Councilor Stetson stated that it says that the city charter, as approved November 8, 2011. He indicated that they won't know on October 24th whether that is a fact or not.

City Solicitor Jim Kennedy confirmed that they don't know but it is written into the proposed amendment that if the voters approve 1-b then that would be amended and repealed to the extent that they approved it to go by ordinance for ward redistricting. He indicated that it's written into that to contemplate that the voters may or may not approve redistricting on November 8th.

Councilor Shurtleff moved to set this item for an October 24th public hearing. The motion was duly seconded and passed with no dissenting votes.

22. Report from the City Engineer on the progress of the US Route 3 Corridor (North) Improvement Project, CIP #35. *(Pulled from consent by Councilor Coen)*

Action: Councilor Coen indicated that there have been letters in the paper and conversations questioning as to why it seems to be taking so long and what is the net effect of the advantages of having this construction done. He asked for a summary as to where the city is at on this project and when the project is going to be completed.

City Engineer Ed Roberge explained that they are five years into the program and anticipate completion of Phase 4a and 4b by the end of the construction year 2012. He pointed out that Phase 5 and 6 remain and those are programmed, as planned, in FY2013 and FY2014. He stated that there have been some complaints but generally it's been positively received.

Councilor Blanchard questioned whether public informational meetings will take place prior to Phase 5 for the benefit of those that live in Penacook. Mr. Roberge responded yes explaining that staff has done this for the first four phases.

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

Consideration of Suspense Items

Councilor St. Hilaire moved to suspend the rules and take up this item that was not previously advertised. The motion was duly seconded and passed with no dissenting votes.

10 Sus1 Street closure request from the Penacook Village Association for the Annual Penacook Tree Lighting Ceremony to be held on November 30, 2011 from 5:00 – 7:00 p.m.

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

Adjournment

The time being 10:02 p.m., Councilor Stetson moved to adjourn the meeting. The motion was duly seconded and passed with no dissenting votes.

A true copy; I attest:

*Michelle Mulholland
Deputy City Clerk*