



Non-public meeting in accordance with RSA 91-A:3, II to discuss the City Manager's Annual Evaluation to be held at 6:15 p.m.

City Council Meeting
Minutes
March 11, 2013
City Council Chambers
7:00 p.m.

Non-public meetings in accordance with RSA 91-A:2, I (a) to discuss the status of collective bargaining negotiations and RSA 91-A: 3, II (d) to discuss property sale and/or acquisition to be held after the Council meeting.

1. Mayor Bouley 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 Sexton, Keach, Kretovic, McClure, St. Hilaire and Shurtleff were present. Councilors Patten and Werner arrived late. Councilor Nyhan was excused.
5. Approval of the February 11, 2013 and the February 19, 2013 meeting minutes.

Action: Councilor St. Hilaire moved approval of the February 11, 2013 meeting minutes. The motion was duly seconded and passed with no dissenting votes. Councilor Grady Sexton moved approved of the February 19, 2013 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

- 5a. Mayor Bouley presented a proclamation proclaiming March 2013 American Red Cross Month to Maria White, American Red Cross NH CEO, and Fred Coolbroth, American Red Cross Board Member.
6. Agenda overview by the Mayor.

- Consent Agenda Items -

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

Referral to the Recreation and Parks Department and the Recreation and Parks Advisory Committee

7. Communication from Marshall Crane, the Frank Monahan Foundation, proposing the establishment of a High School Basketball Summer League to be held at White Park in Concord beginning in June 2013.

Referral to Concord Area Transit

8. Communication from Linda Rauter expressing her concern with the lack of bus shelters at all bus stops within the City of Concord.

Referral to the Planning Board

9. Communication from Richard Uchida, Hinckley Allen Snyder LLP, on behalf of the Grappone Companies requesting rezoning of a portion of property located at 94 Manchester Street in Concord.

Items Tabled for an April 8, 2013 Public Hearing

10. 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. (*Public hearings to be held in March and April*)
11. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, by amending Schedule I of Article 1-5, Fees, Fines and Penalties; together with report from the Deputy City Manager – Finance.
12. Non-ordinance fees.
13. Capital Improvement Program (CIP) Out Years.
14. Resolution appropriating the sum of \$18,000 for the purchase and installation of seven self-operable lifts and accessories to be located at each of the community's seven swimming pools; together with report from the General Services Director.
15. 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; amending parking on District 5 Road; together with report from the Parking Manager.
16. 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; Whitney Road; together with reports from the Traffic Engineer and the Parking Committee in response to a communication from Richard Uchida, Hinckley Allen Snyder LLP on behalf of Interchange Development, LLC and Drake Petroleum Company, Inc. requesting a no parking zone on Whitney Road in an area to be

developed for a convenience store and service station. (11-8)

17. 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; Bradley Street; together with report from the Traffic Engineer.
18. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 17, Vehicles and Traffic; Section 17-4-3, One-Way Streets, Schedule VI, Bradley Street.

From the City Manager

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

Consent Reports

21. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$3,592.15 as provided for under the preauthorization granted by City Council.
22. Fiscal Policy Advisory Committee recommendation on Fiscal Policy Statement and adoption of Fund Balance Policy report from the Deputy City Manager – Finance. (*Revised pages one and two of the proposed fiscal goals for 2012-2013 submitted*)
23. Report from the City Engineer on the status of capital projects managed by the Engineering Services Division.
24. General Fund Proforma Model and report from the Deputy City Manager – Finance.
25. Updated Capital Improvement Plan report for the Beaver Meadow Golf Course from the Parks and Recreation Director.
26. Report from the Fire Chief on Fire Department Vehicles.
27. Report from the Director of Real Estate Assessments on behalf of the Tax Exemption Policy Committee on adoption of a Solar Exemption and revisions to the Existing Elderly and Blind Exemptions and Veteran Credits.

Consent Resolutions

28. Resolution authorizing the City Manager to apply for up to \$1,500,000 in Community Development Investment Program Tax Credits from the NH Community Development Finance Authority; together with a report from the Assistant for Special Projects.

Consent Communications

29. Street closure request for the 2013 Making Strides Against Breast Cancer event to take place in Concord at Memorial Field on Sunday, October 20, 2013.
30. Street closure request for the 11th Annual NAMIWalks NH fundraising and awareness event to be held on Sunday, October 6, 2013.
31. Street closure request for the 21st Annual NH Law Enforcement Memorial Ceremony to be held on Friday, May 17, 2013.
32. Street closure request for the 5th Annual Concord Food Co-Op *Spring into Healthy Living* event to be held on Saturday, May 11, 2013.

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

33. **March 11, 2013 Public Hearings**

- A. 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. (2-7) (***Public hearings to be held in March and April***)

Action: City Manager Tom Aspell provided a brief overview.

Mayor Bouley indicated that they have been doing this since 2005 and that he has voted for this every time since 2005 because they have been told that it gives the ability for some predictability, some consistency, and takes out the edges/spikes to assessing. He noted that over the past several months he has heard from people that are concerned about spikes, particularly in the commercial side, anywhere from 50 to 90 percent increases. He asked why they should do this if they are going to see the spikes anyway. Kathy Temchack, Director of Real Estate Assessments, responded that she cannot predict what is going to happen with the market because it is always changing. She stated that in 2006 the commercial/industrial assessments raised 11.53 percent; in 2008 commercial assessments went up 2.93 percent; this year they went up 13.77 percent. She indicated that this is the increase of the total assessed value of the commercials and does not mean that any one property went up by that percentage. She stated that she understands that people are concerned because, in this particular case, the commercial/industrial people saw an increase in their tax bills because there was no other segment of the population that went up also to buffer this. Ms. Temchack noted that they have received a lot of abatement applications and that they will be going through each of them and determining if there are any corrections that need to be made. Mayor Bouley noted his concerns indicating that it doesn't logically make sense how they see such wild swings for assessments. He indicated that he would like to ask the Board of Assessors to come back and report to the City Council and to the community to let them know if there is anything that can be done to avoid this in the future and when they go through this abatement process maybe explain to them as to what is going on, how did they get into this

situation, how are they seeing such wild swings, is there a problem with the data, is there not enough data, are they using the wrong data. He stated this is his 16th year and he has never seen it like this and when people ask him questions on this, he can't explain it to them.

Councilor St. Hilaire, referring to the news, noted that the housing market seems to have stabilized but the commercial segment seems to still be sluggish. He asked how they transpose what they hear on the news about the economic sectors and the assessments being so different. Ms. Temchack responded that she believes that one of the things that people have a hard time understanding is that when they get their assessment in the fall it represents what the market value of the property was that April. She stated that there are still a lot of foreclosures, short sales and sales in lieu of foreclosures happening in the city. On the commercial side, she indicated that a one percent drop in the capitalization rate is a ten percent increase in the value of the property. She stated that what she set the values on was from information that people returned to her; she used the information that the property owners returned back to her. She added that if a business didn't share information she has to rely on what she has. Councilor St. Hilaire asked how she would make a determination if information wasn't provide, as an example, the mall going down or staying about level and another business going up 90 percent. Ms. Temchack replied that over the last several years the mall has sustained quite a few vacancies and the retail sector for large malls is struggling. Councilor St. Hilaire questioned how another business would go up 90 percent. Mr. Aspell asked for an example of the Smokestack. Ms. Temchack explained that there were changes in the type of property and the property had been labeled as a warehouse and when she received their information, they were no longer predominantly a warehouse and most of the space has been converted to retail and office use. She stated that there is a big difference in value between a warehouse and retail and office space. Councilor St. Hilaire asked whether it's worth doing the assessments every year if they are going to get these large spikes; is it worth taking more time to gather the data you need. Ms. Temchack explained that, in any given year, they always have more sales of residential properties so when they look at the ratio they receive from the Department of Revenue indicating that they have 100.5 percent as their overall ratio, there are commercial sales in this but they are a much smaller percentage. She noted that the residential properties always drive their ratio every year.

Councilor Keach asked for an explanation of the request of information from business owners. He questioned as to what percent of commercial properties responded with specific information. Ms. Temchack replied that there was a 25 percent return rate which is lower than any other year. She explained that what she is looking at is the property and not the business that is in the property for the most part. She is looking for information such as: what are the rents; does that rent include heat, water and electricity; expenses for the property not the business including insurance, water and sewer, maintenance, etc.; who pays the expenses. Councilor Keach asked for an explanation of the capitalization rate in laymen's terms and where they arrived at that number. Ms. Temchack replied that there is no one number; different types of properties would have different capitalization rates. She explained that the capitalization rate is basically a factor that you apply to your

net income. Councilor Keach asked for an example of a hypothetical property. Ms. Temchack noted that if a property had a gross income of \$100,000 you would have to subtract the vacancy and collection loss at ten percent which \$10,000 leaving \$90,000. From here the expenses would be subtracted so if the expenses for the property were \$30,000 this amount would be subtracted from the \$90,000 leaving \$60,000 which is the net operating income. She noted that, depending on whether the expenses are passed through to the tenants or whether the property owner is responsible, they are trying to come up with a value of the property and she doesn't know what the taxes are going to be yet because she doesn't know what the value is. She explained what has to be done to develop a capitalization rate. Referring to the above numbers, she noted that if there was \$60,000 income and had a ten percent capitalization rate she would divide the ten percent into the \$60,000 and get \$600,000 for the property.

Councilor Coen pointed out that the information given to Assessing is voluntary and after what he has heard this evening is that companies such as the Smokestack volunteered information and their assessment skyrocketed. He noted that, in the future, companies may think twice about volunteering information to Assessing. He stated that to him the system of how the information is gathered appears to be flawed.

Mayor Bouley opened the public hearing. There being no public testimony, the hearing was recessed until the April Council meeting.

- B. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing, and Parking; Section 18-1-9, Bus and Taxicab Stands, Schedule VII, Bus Stop – South Commercial Street/Constitution Ave; together with report from the Assistant City Planner. (2-8)

Action: City Manager Tom Aspell provided a brief overview.

Councilor Kretovic, on behalf of the Public Transit Committee, indicated that CAT has six bus shelters and this one was identified, through their process, as being the number one location for a bus stop in the area.

Mayor Bouley noted that CAT has six bus shelters and questioned as to why they haven't been installed.

Councilor Kretovic responded that it is her understanding that the funding required a handicap accessible path and the other part is where the bus stops are located, the city doesn't own the right of way so they have to work in cooperation with the property owners.

Mayor Bouley opened the public hearing.

Public Testimony

Kevin Flynn, Community Development Finance Authority, indicated that they are an enthusiastic supporter of the Friendly Kitchen and they awarded an emergency grant in the amount of \$500,000 through the Community Development Block Grant program to assist with site acquisition and other costs. He added that they also awarded \$300,000 in tax credits to help with the fundraising. He stated that they feel that the installations of a bus stop removes an obstacle for those members of the community who are low to moderate income and at risk by helping to facilitate their access to the site. He noted their support of the proposed ordinance. (Written public testimony on file in the City Clerk's Office)

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

- C. Resolution appropriating the sum of \$1,735,000 including authorizing the issuance of bonds and notes for the Route 3 Corridor (North) Improvement Project – Phase 5 (Village Street, Penacook from the Boscawen Town Line to Stark Street) CIP #35; together with report from the City Engineer. (12-41) (1-38A;1-48) (2-9)

Action: City Manager Tom Aspell provided a brief overview.

Councilor Blanchard questioned whether the \$1.5 million for underground utilities would include putting electricity to all of the properties. Carlos Baia, Deputy City Manager-Development, responded that he does believe that it includes that. He stated that what they are doing as part of this cost is not only undergrounding and relocating the utilities but also may be relocating where utilities access the buildings. He noted that he believes that the cost that would be incurred inside the property is included in this estimate.

Mayor Bouley opened the public hearing.

Public Testimony

Roy Schweiker, Concord resident, noted he was in opposition of this proposed expenditure. He stated that he had asked a previous city assessor whether this would increase the value of the adjacent properties and the response was no. He added that if the response is yes then he would question as to why they are spending \$1.5 million to increase someone else's property. He suggested that the city jump ahead and begin Phase 6 this summer noting that he feels that this would give the business people of Penacook a year to raise some portion of the money or get a CDFA grant.

Ray Miner, Penacook Village Association, testified in favor of the proposed resolution to appropriate funds for Phase 5 of the Route 3 Corridor project. He noted that the PVA would like to thank City Engineering and City Staff for their commitment to improving the village and their outreach to Penacook residents on all the details of reconstruction. The PVA wants this partnership to continue as they proceed with construction and are

committed to continuing to work with the city to sponsor additional community outreach as needed. He noted that from what they have heard for their members and the residents who have attended various meetings is that there is majority support for all aspects of this project: the road reconstruction, the burying of electrical and other wires and the bridge repair work. He asked for the Council's support of this proposed resolution. (Written public testimony on file in the City Clerk's Office)

Glenn Geiger, Penacook business owner, noted that he feels that this an extraordinary and once in a lifetime opportunity. He spoke in strong support of the underground utilities and indicated that he feels that this is the time to put in underground utilities because the city is doing the road project now.

For the record, Councilor Shurtleff pointed out that there is a large contingent of residents from Ward One in attendance this evening.

Councilor Kretovic pointed out that there was a large show from Ward Two as well.

Roy Schweiker further noted his concern with the price of the underground utilities.

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

March 11, 2013 Public Hearing Action

34. Ordinance amending the Code of Ordinances, Title II, Traffic Code; Chapter 18, Parking; Article 18-1, Stopping, Standing, and Parking; Section 18-1-9, Bus and Taxicab Stands, Schedule VII, Bus Stop – South Commercial Street/Constitution Ave; together with report from the Assistant City Planner. (2-8)

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

35. Resolution appropriating the sum of \$1,735,000 including authorizing the issuance of bonds and notes for the Route 3 Corridor (North) Improvement Project – Phase 5 (Village Street, Penacook from the Boscawen Town Line to Stark Street) CIP #35; together with report from the City Engineer. (12-41) (1-38A;1-48) (2-9)

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

Councilor Werner stated that they have to look at these types of properties as investments in their community as a whole and is very confident that this kind of activity and the support of this will ultimately result in more economic development which over time will return more tax dollars and expand their property tax base and more than pay it back.

Councilor McClure pointed out that they have had a city policy of trying to rejuvenate Penacook Village. She inquired as to how much money the city has invested in Penacook.

Matt Walsh, Assistant for Special Projects, responded that the total investment in the Tannery site is approximately \$4.782 million; 56 percent of this total is from non-city sources and 44 percent has come from the city which totals approximately \$2.11 million since 2002.

Councilor Keach acknowledged the councilors from Penacook pointing out the fierce representation of Penacook.

Mayor Bouley indicated that he will be supporting this proposed resolution. He thanked the public for their input and noted that he feels that this will have a positive economic development impact upon the village. He further thanked the City Manager and the staff.

Councilor Blanchard thanked the staff and thanked the support of the Council.

The motion passed 14 to 0 on a roll call vote with Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, DelloIacono, Grady Sexton, Keach, Kretovic, McClure, Patten, St. Hilaire, Shurtleff and Werner voting yes.

Reports

36. Report from the City Engineer summarizing preliminary design costs associated with the Downtown Complete Streets Improvement Project (CIP# 460).

Action: City Manager Tom Aspell provided a brief overview.

Councilor St. Hilaire stated that this report was well done and was exactly what they requested.

Mayor Bouley indicated that he received a question from a constituent in regards to where they are in terms of design and costs. He noted that the questions are becoming more detailed and asked for help to explain to the community where they see it at this point of time and moving forward.

Gene McCarty, Project Manager for McFarland-Johnson, noted that they start with a big picture and then get down to the details. He indicated that at the last Council meeting when Council accepted the layout, this was a major milestone from McFarland-Johnson's perspective from a design because now that they knew the layout was accepted, they could take that and move further along. He stated that they do have a very aggressive schedule because of the federal funding and they are advancing the engineering along in parallel. He indicated that they made a submission to the city last week of more detailed engineering of downtown. He added that, in terms of landscaping, it is currently a blank canvas because they still need a lot of approval from the Council.

Councilor Coen questioned whether information is available on the website. It was confirmed that most of the information is on the website.

Councilor St. Hilaire pointed out that this report mentions Concord Steam and the partnership that the city could have with them. He stated that it also mentions the fact that if they don't have a partner like this, heating the streets and sidewalks, the costs would go way up. He asked when they would need a final answer on this and will they know what's going on with Concord Steam's project and whether they could be a partner. Mr. McCarty responded that they are not there yet but they will need to know within the next six to eight weeks. Carlos Baia, Deputy City Manager-Development, indicated that the latest information that they have is that they will make a formal decision regarding their proposed new plant by April 1st. He added that Concord Steam is working out details and making plans.

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

Unfinished Business

37. Resolution approving the granting of a conservation easement to the Society for the Protection of New Hampshire Forests (SPNHF) on approximately 114 acres of land southerly and easterly of Gully Hill Road, as approved by the Conservation Commission; together with report from the Conservation Commission. (6-17) (7-36B; 7-38) (8-53) (9-39)(10-31) (11-43) (12-42) (1-52) (2-49) (*Action on this item tabled following a July 9, 2012 public hearing*)

Action: Mayor Bouley indicated that he would like to appoint Councilors Keach, Bouchard, St. Hilaire and McClure to review the easement of this property and report back with their findings.

Councilor Shurtleff moved the appointments. The motion was duly seconded.

Councilor Kretovic indicated that she would like to be on the committee. Mayor Bouley added her as an appointment.

The motion, as amended to add Councilor Kretovic, passed with no dissenting votes.

38. Ordinance amending the Code of Ordinances, Title I, General Code, Chapter 14, Morals and Conduct; Article 14-2; Miscellaneous Police Regulations, Aggressive Panhandling; together with report from the Public Safety Board. (1-9) (2-33b; 2-35) (***Public hearing held in February 2013 – item referred back to the legal department***)

Action: This item remains on the table.

39. Resolution amending the official map so as to establish the mapped lines of a future street for a new street from the intersection of Storrs and Theatre Streets southerly to Langdon Avenue; together with report from the Assistant City Planner. (1-16) (2-33I; 2-42) (***Public hearing held in February 2013 – item tabled***)

Action: This item remains on the table.

Comments, Requests by Mayor, City Councilors

Councilor Bennett questioned in regards to the panhandling ordinance. Mayor Bouley responded that it's taking some time to get all the parties that were asked to participate together.

Councilor Coen commented on the difference on the completed portions of the Route 3 project.

Adjournment

The time being 8:25 p.m., Councilor Kretovic moved to enter into non-public meetings in accordance with RSA 91-A:2, I (a) to discuss the status of collective bargaining negotiations and RSA 91-A: 3, II (d) to discuss property acquisition. The motion was duly seconded and passed with no dissenting votes.

A true copy; I attest:

*Michelle Mulholland
Deputy City Clerk*