



***Non-public session in accordance with RSA 91-A: 3, II to discuss the
City Manager's Evaluation and non-public session in accordance with RSA 91-A: 3, II (d)
to discuss property acquisition to begin at 5:15 p.m.***

City Council Meeting
Draft Minutes
May 11, 2015
City Council Chambers
7:00 p.m.

1. The Mayor called the meeting to order at 7:00 p.m.
2. Invocation by the Reverend Jared Rardin from the South Congregational Church.
3. Pledge of Allegiance.
4. Roll Call. Councilors Bennett, Bouchard, Mayor Bouley, Councilors Coen, Grady Sexton, Herschlag, Keach, Matson, McClure, Nyhan, St. Hilaire, Shurtleff, Todd and Werner were present. Councilor Champlin was excused.
5. Approval of the April 13, 2015 Minutes.

Action: Councilor St. Hilaire moved approval of the April 13, 2015 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

6. Agenda overview by the Mayor.
7. Presentation of donation from Unitil to the Friends of the Concord City Auditorium for their LED lighting project.

Action: Cindy Flanagan, City Auditorium President, Carol Bagan, Friends of the City Auditorium Marketing Chair, and Merwyn Bagan, Friends of the City Auditorium Treasurer, introduced themselves. Gary Miller, Unitil, presented a check to the Audi and the city for \$50,000. He stated that Unitil is honored to participate in some of the rehab at the Audi to focus on energy efficiency within the building; they helped to identify some opportunities and worked with the Audi and their vendors to come up with a lighting scheme that was exceptionally energy efficient.

Ms. Bagan added that this entire lighting project was made possible by the kick start given to them by Unitil explaining that the total project cost is \$150,000; the bulk has come from Unitil and half was raised by the Friends of the Audi.

- Consent Agenda Items -

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

Items Tabled for a June 8, 2015 Public Hearing

8. Resolution amending and restating the Revolving Loan Fund's Program Income Reuse Plan (PIRP); together with a report from the Director of Redevelopment, Downtown Services, and Special Projects.
9. Resolution authorizing the City Manager to submit an application in an amount of up to \$500,000 and to accept and appropriate grant proceeds of up to \$500,000 in Community Development Block Grant Funds on behalf of Merrimack Valley Day Care Services (MVDC); together with report from the Director of Redevelopment, Downtown Services, and Special Projects.
10. Resolution readopting the City's Displacement and Relocation Policy Statement and Procedures.

Items Tabled for a June 4, 2015 Public Hearing

11. Resolution fixing and determining the amount of money to be appropriated by the City of Concord for the fiscal year 2016 ending June 30, 2016. *(Not previously distributed)*
12. Resolution amending the amount of money to be appropriated by the City of Concord for the fiscal year 2016 ending June 30, 2016. *(To be distributed under separate cover)*
13. Resolution for bonded projects within the Capital Budget for Fiscal Year 2016 hereby authorizing and approving the expenditure of \$16,894,425 and authorizing the issuance of \$16,894,425 in bonds and notes for various capital projects. *(Not previously distributed)*
14. Resolution for annual capital closeout and repurposing of capital projects funds; together with report from the Senior Accountant. *(Not previously distributed)*
15. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, amending Schedule I of Article 1-5, Fees, Fines and Penalties, Water Rates. *(Not previously distributed)*
16. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, amending Schedule I of Article 1-5, Fees, Fines and Penalties, Sewer Rates. *(Not previously distributed)*

From the City Manager

17. Positive Citizen Comments.

Consent Reports

18. Diminimus gifts and donations report from the Library Director requesting authorization to accept monetary gifts totaling \$2,044.70 as provided for under the preauthorization granted by City Council.
19. Diminimus gifts and donations report from the Parks & Recreation Director requesting authorization to accept monetary gifts totaling \$20,817.63 as provided for under the preauthorization granted by City Council.
20. Quarterly Financial Statements from the Deputy City Manager – Finance.
21. Amendment to the Concord City Auditorium Management Agreement along with a report from the Deputy City Manager – Finance.
22. Report from the Facilities Naming Committee in response to a communication from the Varsity Club at Concord High School requesting the City of Concord consider naming the press box at Memorial Field the “Gene Connolly Press Box”. (10-10)
23. Quarterly Current Use Change Tax Report from the Director of Real Estate Assessments.
24. Semi-Annual Pay-As-You-Throw (PAYT) Report from the General Services Director.
25. Report from the Deputy City Manager – Development recommending conditional authorization for the Granite State Airport Management Association to hold a 5K road race on main runway 17/35 at the Concord Municipal Airport on November 7, 2015.
(Communication from Granite State Airport Management Association submitted)

Consent Resolutions

26. Resolution in recognition of the Services of Master Police Office Eric A. Crane.
(For presentation in June)

Consent Communications

27. Street closure request for the 10th Annual Concord Multicultural Festival to be held on September 26, 2015 from 2:00 – 6:00 p.m.
28. Street closure request from the West Congregational Church for their annual Neighborhood Block Party to be held on June 27, 2015 from 10:00 a.m. – 4:00 p.m.

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

29. **May 11, 2015 Public Hearings**

- A. Resolution adopting an amended Comprehensive Transportation Policy; together with report from the Transportation Policy Advisory Committee. (4-9)

Action: City Manager Tom Aspell provided a brief overview.

Referencing the last paragraph within the proposed policy beginning with “exceptions”, Mayor Bouley inquired as to why this was included noting that it appears that this paragraph seems to be redundant of the responsibilities of what they do as a Council. Otherwise, he felt that this was very well done and captures what they try to do here within the city.

Mr. Aspell explained that the idea of this document is to put together a guideline specifically for transportation policies and systems. He noted that the way they go about projects, they always have the ability to modify based upon the reality of situations, costs, and values to the community. He doesn't see any need for that paragraph explaining that it may have been put there as a clarification of the things that they would look to in terms of moving off the policy. The Council has all these powers and abilities already.

Mayor Bouley opened the public hearing.

Public Testimony

Robert T. Baker, resident, indicated that he is a transportation cyclist within the city and feels that this transportation policy is a great milestone. He explained that the policy is evaluated by Complete Streets America and, as part of the evaluation, they quantify the policy and how you are doing in comparison to the rest of the cities within the country. He indicated that the exceptions are put in so that if they have exceptions that they are going to evaluate transportation by, they want to know what those exceptions are, what they are excluding and why would they not follow their policies. He pointed out his concerns with the policy: within part 1b he is not sure what “incidental” means within this context; within part 1d he feels that there is a disconnect in which it's focusing on motor vehicles and “incidentally” talking about bicycles; within 2 is the only area which mentions livability and once again focusing on motor vehicle traffic; within 10 it encourages more children to walk and bike to school.

Mr. Baker distributed a copy of an email that he sent and the response from Smart Growth America in which they indicate that the policy evaluation looks at the positive aspects of the policy. There is no scoring for dubious language and the email responds: “I am a bit concerned by the emphasis on ensuring smooth and easy automobile travel. The point of Complete Streets is access by any mode, for all people. Often, this does mean subjugating speedy and easy automobile travel for the purpose of achieving other goals; safety, health, revitalization, placemaking, a walkable community, and the like.” Mr. Baker indicated that the point that he is trying to get at is what is meant by livability in the city. He asked Council to stop, before approving this policy, and define the city's definition for livability. He further asked Council to table this policy so that it can be tweaked. **(Mr. Baker's email on file in the City Clerk's Office)**

Councilor Bouchard asked if Mr. Baker is aware that the city has a Safe Walk to School committee that has been meeting for years to develop safe walking paths and conditions for students in the city.

Mr. Baker responded that he is aware of this committee but he feels that the problem is that the policies are not working. He rides to the Christa McAuliffe School with his daughter and feels that it's really challenging because they have to ride in the middle of the street to get her to school.

Councilor McClure asked for a suggestion as to how 1b should be reworded in regards to the word "incidental".

Mr. Baker responded that he doesn't know what that word means; he would like some clarification. He stated that perhaps it could read "to provide safe, efficient, cost efficient bicycle transportation". He pointed out that "incidental" is too vague.

Mayor Bouley pointed out that there appears to be a lot of walkers around the Christa McAuliffe School area which is part of livability.

Mr. Baker noted that the sidewalks are safe for walking but the biking is very minimal because it is not safe.

Referencing the email that was distributed, Mayor Bouley pointed out that the first bullet point indicates: "a policy is only as good as its implementation". He noted that they could spend a lot of time on the policy and try to explain what "incidental" means which he is not opposed to but at the end of the day it's the implementation that matters.

Mr. Baker noted that they could look at Main Street for the sample of what they've got; there is front in angled parking with a shared lane for bicycles behind that. He stated that there is no way he could take a ten year old down that street because it's too dangerous. He noted that there could be a bike lane on Main Street if there was back in angled parking there.

Mayor Bouley stated that he doesn't take certain roads within the city when biking and that there is no 100 percent sure fire method; they all come with some danger.

Councilor Bouchard stated that Main Street may be difficult for biking but the side streets are much better. She noted that Complete Streets doesn't mean every single street; it should be as user friendly as it can but there also needs to be accommodating alternate routes. She feels that the city and its policy is trying hard to do this.

Roy Schweiker, resident, agrees that the important thing is not what's said in the document but what's implemented; he disagrees that the sidewalks are safe. He noted his concerns with the city's snow removal policy. He feels that if Council approves this policy, the current operations violates the policy and the American with Disability Act.

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

- B. Resolution appropriating the sum of \$60,000 from the Building Improvement Reserve Fund for demolition of City owned property located at 10 Prince Street; together with report from the Director of Redevelopment, Downtown Services and Special Projects. (4-10)

Action: City Manager Aspell provided a brief overview.

Councilor Coen inquired whose jurisdiction this parking surface would be the responsibility of. Mr. Aspell responded it would be under his authority and that Matt Walsh, Director of Redevelopment, Downtown Services and Special Projects, would be in charge of taking care of the parking lots as he does the other ones.

Councilor Herschlag asked what the costs were that would have been incurred for unanticipated renovations. Mr. Walsh responded that the renovations were due to lead abatement and were tens of thousands of dollars.

Mayor Bouley opened the public hearing.

Public Testimony

Roy Schweiker, resident, noted his concerns with tearing down the building. He feels that this would make a good location for a temporary homeless shelter in the winter.

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

- C. Resolution authorizing the City Manager to enter into a purchase and sales agreement with the Penacook Community Center concerning city owned property located on Village Street in Penacook; together with report from the Director of Redevelopment, Downtown Services and Special Projects in response to a communication from Deb Cuddahy, Penacook Community Center, asking the City to consider selling or entering into a long term lease of a city owned parcel of land on Village Street, lot #143P-31. (1-8) (4-11) ***(Public testimony received)***

Action: City Manager Aspell provided a detailed overview highlighting points within the report.

Mayor Bouley opened the public hearing.

Public Testimony

Deb Cuddahy, Penacook Community Center Executive Director, distributed a handout listing the programs and services offered at the Penacook Community Center (PCC), a drawing, and letters in support of the community center's expansion from the Merrimack Valley School District, Penacook Elementary School and Daniel Chang. **(On file in the City Clerk's Office)** She highlighted the information contained within these documents.

She explained that the current building that was built 61 years ago is not adequate now, is wrought with inefficiencies, the size is not able to handle all of the growth that they have had, it's not handicap accessible, and is not accessible by public transportation which limits use to many seniors within the community. Ms. Cuddahy indicated that they have been searching tirelessly since 2011 to find adequate housing for PCC. They looked at their own property to see if they can put a facility there to no avail and also tried to look at the Washington Street School which failed. She stated that the Village Street property is the perfect location for PCC and will allow them to maintain a presence in Penacook, allow them to create new jobs, increase their program capacity across all ages, and provide greater accessibility to the seniors by utilizing public transportation. She feels that their project will enhance the ongoing revitalization of Penacook Village and will provide a gateway into the PCC community.

Ms. Cuddahy indicated that PCC, the Board of Directors and the HL Turner Group were very mindful when creating a facility design that focused on efficient and effective use of the space that will help meet the needs of the community.

Gerry Blanchette, HL Turner Group, recognized Attorney Richard Uchida as a part of their team and helping to guide them through the transaction process. He provided a description of the drawing contained within the handout.

Ms. Cuddahy asked Council to help them move forward with the sale of this land to PCC.

Councilor Coen referenced the pie graph pointing out that 66 percent of the people that PCC serves are from Penacook/Concord and 33 percent are from other towns. He inquired as to what type of support they are receiving from these other towns.

Ms. Cuddahy responded that they receive \$5,000 annually from Boscawen, \$500 annually from Webster, and \$28,000 from the City of Concord.

Patrick Tufts, Granite United Way, spoke in support noting that affordable and accessible childcare is at the top of working people's minds and can be the difference between securing, sustaining, finding and growing within their own work opportunities. He noted that this particular proposal does offer expanded childcare opportunities for the community and opportunities for seniors.

Kathleen St. Louis, resident, supports the purchase of the property. She feels that the location is ideal and provides access for seniors because it is on an already approved bus route. She indicated that it will continue with the revitalization of Penacook.

Roy Schweiker, resident, doesn't see any reason why the city shouldn't allow them to buy this lot but his only objection is the price. He feels that when the city is buying property they pay double the assessed value and if they are selling it's half of the assessed value; it's not fair to the taxpayers. He noted that he feels that other communities should contribute to this and, if not, higher fees should be charged to residents of other communities for the services.

Pat Peick, Tower Circle resident, noted that he is not sure why such a large facility is needed. Being a neighbor to this property, he is concerned with the aesthetics and the clearing of the trees. He further noted his concerns with the noise that may arise from the facility so close to a cemetery.

Councilor Herschlag asked if Mr. Peick feels that the buffer that is proposed would be adequate between his property and the community center. Mr. Peick stated that he was hoping to hear what that buffer would be.

Councilor Herschlag noted that the buffer on the end of the lot is 25 feet and the buffer on the side of the lot is 15 feet. He pointed out there will be trees and fencing used. Mr. Peick responded that he doesn't feel that this is adequate at all. He added that another concern for him is foot traffic cutting through his property to get to the community center.

Lesley Corriveau, resident, spoke in support noting that, with this proposed project, people will be able to use the bus line to get there. She feels that this is a good place for both seniors and kids.

Bruce Davis, Tower Circle resident, noted his concern with the buffer zone behind the building and feels that it will be in his backyard.

Councilor Coen asked if anyone on this project had approached neighbors to talk about the buffer. Mr. Davis responded no explaining that he found out when he saw surveyors out there and he called City Hall for information.

Liz Blanchard, resident, spoke in support of this proposed project. She suggested leasing PCC the land for one dollar for 145 years. She feels that the city should give PCC that land.

Kathryn Hollins, Webster resident and PCC Board Member, spoke in support of the childcare the community center offers and stressed the importance of the after school programs.

Joe Kenney, resident and PCC Board President, read excerpts from Daniel Chang's letter of support.

Councilor Bouchard inquired whether there is a sliding scale for the childcare services. Deb Cuddahy responded that the fee base is one fee for all children. She added that they also bring in many state aid students in which a lot of their tuition is subsidized by the state; last year, they spent over \$19,000 worth of scholarship funds towards all of the children that were attending PCC.

Referencing the boundary map, Councilor St. Hilaire noticed that each parcel is in a different zone. He inquired as to what happens if the Zoning Board doesn't allow the daycare on the CG district and makes them lop off the front part of the building.

Attorney Richard Uchida replied that this is a possibility and they may come to the Council for a zoning change. Councilor St. Hilaire asked if that would mean that they wouldn't push the building back further into the residential neighborhood. Attorney Uchida responded no stating that they feel it would be a mistake to push the building further back into the residential neighborhood. He added that this is just the start of the process and they have the Zoning Board and Planning Board to go through. Attorney Uchida indicated that they have heard the concerns in regards to the buffers and the landscaping around the building to mitigate some of the issues with the residents and they will be reaching out to the residents.

Deb Cuddahy indicated that she did reach out to each of the neighbors via email and telephone.

Councilor Herschlag asked when Ms. Cuddahy reached out to the neighbors. Ms. Cuddahy responded that it was three to four weeks ago.

Terry Peick, Tower Circle resident, spoke of her concerns with the possibility of light pollution from the parking lot. She noted her concerns with the abutting cemetery pointing out that many of the gravestones are near the trees because of family requests and wondered if the families will be notified that they are going to be removed.

Pat Peick, Tower Circle resident, clarified the notification process indicating that he did receive a plot map while he was on vacation. He sent Ms. Cuddahy an email to find out what is going on a week before the meeting. He noted that he feels that there wasn't any big reach out; he had to solicit for information.

Deb Cuddahy stated that PCC wants to address any concerns and would like to have a sit down to talk to the neighbors.

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

- D. Resolution accepting and appropriating the sum of \$36,274.57 from Primex Insurance reimbursement and transferring the sum of \$36,274.57 to the Capital Reserve Trust Account for building improvements; together with report from the Deputy City Manager – Finance. (4-12)

Action: City Manager Aspell provided a brief overview.

Councilor Herschlag asked what the costs of the repairs would be and/or the costs of the demolition. Mr. Aspell responded that they are not going to look at either one right now. Councilor Herschlag inquired as to how they arrived at negotiating the payment from the insurance company. Mr. Aspell responded that it's based on what they put the value of the site; for the repair of the project.

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

- E. Resolution appropriating the sum of \$236,000 from Unassigned Fund Balance and transferring the sum of \$100,000 from Contingency to General Fund, General Services Snow and Ice Control accounts to support winter maintenance over-expenditures; together with report from the Deputy City Manager - Finance. (4-13)

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

May 11, 2015 Public Hearing Action

30. 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) (3-26A) (4-37A) (*In accordance with RSA 75-8-b public hearings were held in March and April*)

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

Councilor Herschlag noted his concerns for an annual appraisal at this time. He wonders if this is something that they need to partake in every year and whether they can wait until there is a need or there is a feeling that the market is going to change significantly up or down.

Councilor St. Hilaire indicated that Council had debated this for a few years and he had this same question. He was converted and became a believer that annual evaluations do make sense especially when looking at the valuation between residential property owner and the commercial piece and how this can switch. He explained that, if the economy seems to be taking a swing in a positive direction, typically one would see the commercial property gaining value which helps out the residential taxpayers; for this reason alone, he feels that this is a good idea on the theory that it will help out the residential taxpayer.

Councilor McClure added that it helps out with abatements and with people that have concerns with their values. She noted that it has significantly helped in this regard and has been a big success from the time they instituted this.

The motion to approve passed with no dissenting votes.

31. Resolution adopting an amended Comprehensive Transportation Policy; together with report from the Transportation Policy Advisory Committee. (4-9)

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

Referencing 1b, Councilor McClure indicated that “incidental” means happening as a minor part or result of something. She understands that they may not be able to always fully integrate bicycles into their street planning and design but doesn’t know why they would want to institute in a policy that it’s going to be just a minor part of their planning. She asked if somebody could explain this.

City Engineer Ed Roberge explained that when they were working on Canterbury Road and South Fruit Street they wanted to recognize narrowing lanes and it was just incidental to the construction because they were either overlaying or repaving the street anyway; they want to make sure they kept this policy in place which was “let’s share the space”. He stated that it may not be ideal but that’s how they incrementally started. Mr. Roberge indicated that it’s that incremental or incidental striping change that would allow them, without affecting curbing and creating some massive project, to refocus sharing that space. It’s always been that balanced approach that they try to get to. He noted that it’s important to include it in there as they plan for the future; they can make those simple changes and they want to continue to make those simple changes.

Councilor McClure pointed out that there is a big difference between “incremental” and “incidental”. She believes what is being said is that they are going to incrementally make the streets more bicycle friendly but doesn’t feel that they should say that they are only going to make those as incidental parts of the planning. She stated that she is uncomfortable with this wording.

Councilor Todd indicated that 1b begins with the statement: “fully integrating bicyclists into the city’s transportation system”. He stated that he feels this shows that this is the intent which includes doing whatever means to reach a goal of getting bicyclists as fully integrated as possible into the city system. He read that 1b continues by saying “via improvements as incidental parts of street building” which he doesn’t take to mean bicyclists being incidental or involving bicyclists more in the system as being an incidental aspect of it. Councilor Todd understands Mr. Roberge as saying that this is an incidental part of resurfacing or rebuilding the street to accommodate bicyclists. He explained that what they tried to do on TPAC was to explain the different ways that they could go about making those changes so that they could incorporate bicyclists further into the city system.

Mayor Bouley noted his agreement with Councilor Todd noting that it is consistent language and it can depend on where one puts the emphasis on the sentence.

Councilor McClure stated that she would be comfortable if “incidental” wasn’t there and would like TPAC to delete “incidental” in their next revision.

Mayor Bouley asked for the history of the last paragraph noting that he feels that Council is well aware of their responsibilities and doesn’t know why there is a need to include the paragraph dealing with exceptions.

Mr. Roberge noted his agreement explaining that it’s not intended to limit Council’s action and, by practice, they try to do what they can within reasonable limits which includes functional or fiscal. He indicated that it’s a typical statement in which they were following some policy guidelines. He explained that the “exception” statement isn’t really to limit or change any of the guidance they receive from Council but is there just to present it in the event that there are conflicts.

Councilor Werner stated that he feels that the sentence within 1b is confusing and he is in support of rewriting this section to make it clearer.

Referencing 2a, Councilor Herschlag asked if he was correct in assuming that they are not looking to allow cut through traffic. Mr. Roberge indicated that to be correct. Councilor Herschlag noted that it's his understanding the city uses a regional or a national model for the level of service which appears not to make sense for Concord. He inquired whether there is a way to establish a level of service for streets that would be more consistent for Concord. Mr. Roberge responded that they have developed a fairly detailed and comprehensive regional model specific to the city's land uses. He indicated that the regional model that they have developed and use is very specific to Concord – the land use types; the corridor types; where they are located and how you get in and out.

Referencing the amount of traffic they have on Loudon Road, Councilor Herschlag wonders whether there is a problem with the level of service or whether it is more of a planning issue.

Councilor Nyhan moved to table and send this item back to TPAC to have them consider the different points that Council and Mr. Baker have raised and to come back with a revised recommendation. The motion was duly seconded.

Councilor McClure commended TPAC for all their work and for wanting to update their policy.

Councilor Nyhan's motion passed with no dissenting votes.

32. Resolution appropriating the sum of \$60,000 from the Building Improvement Reserve Fund for demolition of City owned property located at 10 Prince Street; together with report from the Director of Redevelopment, Downtown Services and Special Projects. (4-10)

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

33. Resolution authorizing the City Manager to enter into a purchase and sales agreement with the Penacook Community Center concerning city owned property located on Village Street in Penacook; together with report from the Director of Redevelopment, Downtown Services and Special Projects in response to a communication from Deb Cuddahy, Penacook Community Center, asking the City to consider selling or entering into a long term lease of a city owned parcel of land on Village Street, lot #143P-31. (1-8) (4-11) (*Public testimony received*)

Action: Councilor Werner asked what currently exists now in terms of lighting, whether there is anything envisioned in the future for a change of lighting and if those lights are shut off automatically like the SPCA's lighting. He wonders what can be done to mitigate the light pollution concerns.

City Manager Aspell explained that lighting is something that the Planning Board will look at when the site plan comes before them.

Councilor Coen asked for an explanation of the steps involved.

City Manager Aspell pointed out that, within the development agreement, there is layout of all the steps that need to be taken. He explained that the item this evening is simply a purchase and sales agreement with many conditions. Those conditions include everything from getting the property either rezoned or a variance; to buying the other pieces of property; to putting covenants on the deeds of the existing properties that they have. He indicated that there are numerous steps and public processes that need to be done. Mr. Aspell explained that part of the first step in the process of going through this and will be a multi-year process with many steps.

Councilor Shurtleff moved to approve the resolution. The motion was duly seconded.

Councilor Keach indicated that he will be voting in favor of this resolution. He noted that, at this point, what they are saying is that they agree in principle to this concept and there are different boards that will delve deep into the details with public input to address the concerns raised this evening.

Councilor Nyhan encouraged dialogue with the impacted neighbors to address those concerns.

Councilor Shurtleff believes that the residents of Tower Circle and Councilor Werner brought up some good points and concerns that they have and feels that these will be addressed by PCC, the Zoning Board as well as the Planning Board. He urged the Council to support this resolution.

Councilor Todd echoed Councilor Shurtleff's statement and is in support of the resolution. He is confident that PCC will work tirelessly to alleviate any concerns and issues that residents and Council may have.

Councilor Coen indicated that this could become a potential polling location.

The motion to approve passed with no dissenting votes.

34. Resolution accepting and appropriating the sum of \$36,274.57 from Primex Insurance reimbursement and transferring the sum of \$36,274.57 to the Capital Reserve Trust Account for building improvements; together with report from the Deputy City Manager – Finance. (4-12)

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

35. Resolution appropriating the sum of \$236,000 from Unassigned Fund Balance and transferring the sum of \$100,000 from Contingency to General Fund, General Services Snow and Ice Control accounts to support winter maintenance over-expenditures; together with report from the Deputy City Manager - Finance. (4-13)

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

Appointments by the Mayor

Reports

New Business

Unfinished Business

36. Ordinance amending the Code of Ordinances, Title I, General Code; Chapter 14, Morals and Conduct, Use of Consumer/Permissible Fireworks; together with report from the City Solicitor in response to a request from Councilor Matson that consideration be given to an ordinance prohibiting the use and possession of high powered fireworks within the City of Concord. (8-7) (3-10) (4-37E; 4-41) *(Following an April 13, 2015 public hearing this item was referred to the Public Safety Board for review) (Report from the Public Safety Board submitted)*

Action: Councilor Grady Sexton moved to remove this item from the table. The motion was duly seconded and passed with one dissenting vote.

Councilor Grady Sexton moved to not accept the recommendation of the Solicitor and to accept the recommendation from the Public Safety Board. The motion was duly seconded.

Councilor Grady Sexton explained that this ordinance was referred to the Public Safety Board who met on April 27th on this item. She noted that Police Chief Osgood testified that the Police Department currently has the tools necessary to regulate conduct involving the use of fireworks including state law as well as the city's ordinance. She explained that Chief Osgood intends for the department to use bike patrol officers to monitor locations where noise complaints have been a concern. As a result, the board voted unanimously to recommend that the City Council vote against the proposed ordinance and report.

Councilor Grady Sexton indicated that the board did establish a subcommittee led by Councilor Shurtleff to review whether the issue of permitting fireworks would offer some solution.

Councilor St. Hilaire indicated that, to be fair, the Solicitor drafted an ordinance to help the situation but it's not that the Council wouldn't be accepting the Solicitor's recommendation because he was a part of this process during the Public Safety Board's last meeting.

Councilor Grady Sexton stated that the Solicitor did note that it was not a recommendation of the Solicitor's department but nearly a result of a request of Councilor Matson's referral.

Councilor Herschlag inquired whether this item would be going back to the Public Safety Board.

Councilor Grady Sexton explained that the subcommittee will meet and look at the issue of permitting and any other issues they feel is important. The subcommittee will bring their information back to the Public Safety Board who will then make a recommendation to the Council.

Councilor Herschlag asked the reason for taking this item off the table.

City Manager Aspell indicated that, from a process standpoint, if the Council already knows that this is something that they are not going to adopt the best thing to do is to take it off the table and vote against it. He noted that when it comes back, the Council would have a public hearing and take action on it. He pointed out that if it remains on the table it may be confusing for some.

Councilor Shurtleff indicated that the Public Safety Board feels that the passage of the ordinance at this time is not appropriate and asked that the committee report be adopted.

Councilor Matson does like the idea of the subcommittee and does like the idea of exploring permitting as a way to selectively control how it's addressed.

Mayor Bouley took Rule Six. He was not present at the table for discussion and did not vote on this item.

Councilor Grady Sexton's motion passed with no dissenting votes.

37. Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Article 28-2, Zoning Districts and Allowable Uses, Article 28-5, Supplemental Standards, Article 28-7, Access, Circulation, Parking, and Loading and Glossary, Alternative Treatment Centers; together with report from the Deputy City Manager – Development. (11-10) (2-9) (3-26C; 3-28) (4-44)

Action: Councilor Shurtleff moved to remove this item from the table. The motion was duly seconded and passed with no dissenting votes.

Councilor Shurtleff moved approval of the ordinance. The motion was duly seconded.

Councilor Shurtleff explained that when the legislature initially enabled the possession of marijuana for medical reasons, they made those facilities that grow marijuana non-profits. He indicated that when this ordinance was presented there was a bill going through the legislature to take away that non-profit status and to allow municipalities to tax, zone and regulate grow facilities. He informed Council that this legislation has been passed and signed into law by the Governor. He asked the Council to adopt the ordinance as originally proposed and presented.

Councilor Herschlag thanked staff for their follow through and for testifying at the Rules Committee to help to ensure that, should an alternate treatment center come to Concord, they would be responsible for paying property taxes.

Councilor Shurtleff's motion passed with no dissenting votes.

38. 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) (3-39) (4-37) (5-58) (6-53) (7-40) (8-65) (9-37) (10-36) (11-40) (12-37)(1-42) (2-56) (3-45) (4-18) (5-45) (6-42) (7-38) (8-26) (9-42) (10-41) (11-41) (12-33) (1-47) (2-34) (3-30) (4-46) (*Action on this item tabled following a February 2013 public hearing*)

Action: This item remains on the table.

39. Ordinance amending the Code of Ordinances, Title III, Building and Housing Codes; Chapter 27, Housing Maintenance and Occupancy Code; Article 27-1, Housing Maintenance and Occupancy Code, Section 27-1-5, Amendments to the International Property Maintenance Code/2009; together with report from Code Administration. (8-14)(9-26C; 9-29) (10-37) (11-41) (12-38) (1-43) (2-57) (3-46) (4-49) (5-46) (6-43) (7-39) (8-27) (9-43) (10-42) (11-42) (12-34) (1-48) (2-35) (3-31) (4-47) (*Action on this item was tabled after a public hearing was held on September 9, 2013.*)

Action: This item remains on the table.

Comments, Requests by Mayor, City Councilors

Councilor Herschlag thanked Engineering for the completion of intersection improvements located at the intersection Washington, Borough and River Roads with the intention to help to slow traffic and improve safety within this area.

Councilor Matson noted that Concord Housing and Redevelopment has made a generous donation for free swimming lessons for children in Concord and Penacook. She announced that there is a Patriot Alumni Football Clinic that will be held on Saturday, May 16th.

Councilor Bouchard added that the registration for the free swimming has already begun. She further added that the football clinic is open to both boys and girls ages 9 through 14.

Councilor Todd announced upcoming Concord 250 Memorial Day Weekend events: free concert series with the Wildcat Regiment Band from Pennsylvania on Saturday, May 23rd from 12:30 p.m. to 1:30 p.m. at Riverside Park in Penacook; Sunday, May 24th 7:00 p.m. to 9:00 p.m. at the City Auditorium; and performing at the Memorial Day Parade on Monday, May 25th at 9:00 a.m. List of all events are on the Concord250.org website.

Mayor Bouley recognized Concord Housing and Redevelopment for providing an opportunity for the kids within the community.

Mayor Bouley reminded residents to license their dogs.

Mayor Bouley noted that great strides have been made this year to improve the Beaver Meadow golf course including painting the club house. While golfing on Saturday he noticed that the top peak had not been painted and sent a picture of this to the City Manager to find out when the top would be painted. He indicated that when he finished golfing he found the City Manager himself painting the peak of the club house. The Mayor noted that this illustrates how fortunate the city is to have Mr. Aspell as their City Manager; he is a hands on leader and a role model to all of the city employees.

Comments, Requests by the City Manager

City Manager Aspell provided an update on the Sewalls Falls Bridge explaining that all of the necessary documents are in place to authorize the funds and to advertise the project; everything is ready to go from a design and permitting standpoint. However, he explained that there is still much uncertainty with federal funds; the state only has authority until the end of May with the current funding resolution that is in place. He indicated that there is talk about a short term extension, at the federal level, until July or August when the Federal Highway Trust Fund is projected to be in deficit without congressional action. Mr. Aspell provided an detailed explanation including: that the state has only received 2/3rds of their anticipated level of federal funding for the year; the project is approximately \$10 million in cost; the funding has not been acquired or set aside by the state; in the program, the project is cash flowed with \$5.5 million programmed for 2015 and \$4.5 million programmed for 2016. Federal funds are encumbered or tied up when they are obligated so, in this case, the state would authorize the full \$10 million and obligate this year's funds \$5.5 million and the remaining funds are "advanced constructed" against next year's program amount.

Mr. Aspell stated that, given the present uncertainty of federal funding, to advertise the project the Department of Transportation has asked the city to acknowledge the risk and responsibility of the advanced construction amount of \$4.5 million. He noted that other communities and cities have done this and agreed to sign agreements saying that they would be at risk. He stated that the highway trust fund is in deficit and the federal highway authority will likely institute cash management measures which will include tapered partial reimbursement which could affect city reimbursement as well. Regarding this year's federal funding, \$5.5 million to advertise the project is committed and ready to obligate; if there are short term continuing resolutions and limited funding, existing commitments would take priority.

Mr. Aspell noted that the city was asked whether they would be in agreement to sign something that other communities have signed and the Mayor and himself have reviewed this and said "no". However, they made a proposal back to them and put together a draft agreement and is asking the Council if they feel this is a good idea. He indicated that there are five points he included within a one page letter that he would send to the Commissioner: the NHDOT has all the necessary documentation in place to authorize the funds and advertise the project; the NHDOT is prepared to authorize the full \$10 million for the bridge project; this year in 2015, the NHDOT has committed and prepared to obligate approximately \$5.5 million for federal funding share to advertise the project; the remaining federal funds are "advanced constructed" against next year's 2016 programmed amount of \$4.5 million; priorities for federal funding in 2016 are in order of

City Council Minutes

May 11, 2015

18

NHDOT priority - \$20 million for I-93 debt, \$25 million the Sarah Long Bridge and \$4.5 million for the Sewalls Falls Bridge. The final piece indicates: “based on the statements outlined above, with the condition that the Sewalls Falls Bridge project remained or improved upon its number three priority status for any and all future federal fund allocations to the NHDOT, the City of Concord agrees to assume the responsibility to fund the remaining federal portion of the project up to \$4.5 million until such time as the federal funds are obligated for this project”.

Mr. Aspell explained that the only danger here, as he sees it, is that no more federal funding comes down for it to the state. He recommends moving forward with the letter. If Council doesn't want to do this, then essentially the project will stop and they will not move forward from where they are today until such time future federal money comes down; if it does come down, it may not be allocated for Concord.

Councilor St. Hilaire asked if DOT was notified of this proposal. Mr. Aspell responded yes. Councilor St. Hilaire asked what their response was. Mr. Aspell indicated that they are 100 percent in support of this proposal.

Councilor Herschlag asked when the city will know when they will receive the \$5.5 million this year. Mr. Aspell responded tomorrow, as soon as he sends the letter. Councilor Herschlag questioned whether the state could change their priorities. Mr. Aspell responded that the state has agreed to keep this project as number three or higher.

Councilor Coen noted that he is in support letter because this bridge is critical for safety reasons and traffic flow. He indicated that if payment is delayed for several years, he still feels that it's worth it.

Councilor Nyhan echoed Councilor Coen's comments noting that he feels that the risks are minor. He is in favor of the letter.

Councilor Bouchard echoed Councilor Coen's and Nyhan's comments noting that she is supportive of this.

Councilor St. Hilaire thanked the state for being flexible and for working with the city.

Councilor McClure thanked the City Manager for working on this issue.

Councilor Shurtleff moved to adopt the agreement as outlined by the City Manager between the City of Concord and the Department of Transportation. The motion was duly seconded.

Councilor Shurtleff agrees with the Councilors comments and thanked the Mayor and City Manager for working out this agreement and coming up with a viable solution.

Councilor Herschlag thanked the Mayor and City Manager for the time they put into finding a solution for this bridge to move forward.

City Council Minutes

May 11, 2015

19

Mayor Bouley pointed out that there are a lot of parties involved and encouraged everyone in the community to contact their congressional delegation and urge them to reauthorize the transportation dollars.

Mr. Aspell noted that they worked closely with Patrick McKenna, Deputy Commissioner of the Department of Transportation, and William Cass, Acting Commissioner for the Department of Transportation.

The motion to adopt the agreement passed with no dissenting votes.

Consideration of Suspense Items

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

To be set for a June 8, 2015 Public Hearing

5 Sus1 Ordinance amending the Code of Ordinances, Title I, General Code; Article 1-6, Code of Ethics; together with report from the Rules Committee.

Action: Councilor Nyhan moved to set this item for a June 8, 2015 public hearing. The motion was duly seconded and passed with no dissenting votes.

Adjournment

The time being 9:40 p.m., Councilor Keach 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*