City Council Meeting

Minutes

August 24, 2011

Non-public meeting in accordance with RSA 91-A: 3, II (d) to discuss property acquisition and a non public meeting in accordance with RSA 91-A: 2, I (b) to discuss contract negotiations to be held at 6:30 p.m.

City Council Chambers

7:00 p.m.

1. The Mayor called the meeting to order at 7:00 p.m.

2. Roll Call. Councilors Bennett, Blanchard, Bouchard, Mayor Bouley, Councilors Coen, Grady, Keach, McClure, Nyhan, Patten, St. Hilaire, Shurtleff and Stetson were present. Councilors DelloIacono and Werner were excused.

3. Agenda overview by the Mayor. Mayor Bouley asked that suspense items 1 through 6 be taken up by Council before beginning the public hearings. There being no Council objection, suspense items were taken up first. See suspense items for the actions taken by Council.

Consideration of Suspense Items

Suspense items were taken up at the beginning of the meeting. Councilor St. Hilaire moved to consider suspense items not previously advertised. The motion was duly seconded and passed with no dissenting votes.

8 Sus1 **Report from the Deputy City Manager – Development**

Report from the Deputy City Manager – Development in regards to a moose art exhibit being placed in front of the Duprey building on Main Street in Concord. *(Correspondence received from Byron Champlin on behalf of Creative Concord)*

Action: Councilor St. Hilaire moved acceptance of the report. The motion was duly seconded and passed on a voice vote.

8 Sus2 **Item Tabled for a September 12, 2011 Public Hearing**

Resolution accepting and authorizing the expenditure of $825,000 from the State of New Hampshire Department of Transportation for their 1/3 share of the intersection improvements at Manchester Street and Airport Road; together with report from the Associate Engineer.

Action: Councilor Bouchard moved to set this resolution for a September 12, 2011 public hearing. The motion was duly seconded and passed with no dissenting votes.

8 Sus3 **Street Closure Request**

Street closure request from the New Hampshire State Firemen's Association for an event to be held on September 11, 2011; Park Street between North Main Street and North State Street.

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

8 Sus4 **Report from Community Development – Engineering**

Report from the City Engineer requesting the City Manager be authorized to grant a private sanitary sewer easement across a portion of a city drainage easement that encumbers property known as 3 Heather Lane.

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

City Manager Tom Aspell provided a brief overview.

The motion to approve passed with no dissenting votes.

8 Sus5 **Consent Resolution**

Resolution authorizing the City Manager to enter into a Purchase & Sales Agreement for the acquisition of real estate located at 10 Prince Street, Concord; together with a report from the Assistant for Special Projects.

Action: City Manager Tom Aspell provided a brief overview.

Councilor Keach indicated that he will be recusing himself from the vote because of his membership on the board for the Friendly Kitchen. He noted that he doesn't believe that there is a direct conflict but there is discussion on that board to look at that property.

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

8 Sus6 **Item Tabled for a September 12, 2011 Public Hearing**

Resolution appropriating the sum of $200,000 and authorizing the issuance of bonds and notes for acquisition of 10 Prince Street and completing all related due diligence.

Action: Councilor Nyhan moved to set this resolution for a September 12, 2011 public hearing. The motion was duly seconded and passed with no dissenting votes.

4. **August 24, 2011 Public Hearings**

A. Report from the Deputy City Manager – Development recommending a public hearing be held on a Payment in Lieu of Taxes (PILOT) agreement between the City of Concord and Concord Power and Steam, LLC. (6Sus4), (7-4A) ***(Public hearing recessed on August 10, 2011) (Public testimony received)***

Action: There being no objection by the City Council, items A through E were read together.

Carlos Baia, Deputy City Manager-Development, explained that a number of these agreements were approved last year and have not changed to any significant extent. The first is the payment in lieu of taxes which was approved by City Council in April 2010 and has since expired and Concord Power and Steam would like to revisit the pilot as part of the package that ties into all the other agreements before Council this evening. He provided a refresher explaining that this pilot provides a base payment after year one of full operation of $564,000 and increases from that point forward; it has a cost of living adjustment every year and the payment is always guaranteed to not go below the prior year for the entire length of the agreement. He added one caveat that was discovered late in the process because when they negotiated the pilot, there was no talk of these other agreements so the dates that the pilot is good until is July 1, 2029 should all the extensions be implemented while all the other agreements go until the year 2033 should all their extensions be implemented. He noted that he would ask that, if Council favors approving the pilot, the motion be qualified to allow the staff to adjust that date to be consistent with all the other agreements should the Council approve those as well. Referencing the steam agreement, Mr. Baia explained that one of the things that they tried to do during the pilot negotiations was to negotiate a better rate for the city in terms of their steam usage which is disproportionally high in terms of cost. He stated that they tried to negotiate a steam price and they have a contract here that the PUC staff has recommended for a rate that would be much lower than the rate that the city currently pays; $36 down to $24 and would be a significant savings to the community and to the city. He pointed out that the revision that was done since the first draft was based upon the recommendation of the PUC staff which wanted to make this steam contract consistent with the steam contract that the state recently enacted. Mr. Baia touched base upon the license agreements regarding the right of way and wastewater treatment plant.

Brian LeBrun, Deputy City Manager – Finance, explained that the entire contract was only received late yesterday afternoon and for the past 24 hours, staff, the city's consultant and the legal department have been reviewing both the proposal and the contracts. He noted that if all of the variables in the contract do come to fruition, then it is a positive deal for the City of Concord. He stated that even between remaining at status quo or to convert the campus to natural gas it still, with all these variables, would still be positive for the city. Based on those assumptions, if they do not all materialize, then it becomes less attractive and the benefit of each value item becomes reduced over time. He explained that the proposal that was received calls for a ten year initial agreement with two 5 year options; due to the length of the agreement obviously it does come with some inherent risks and the real question is whether those variabilities is going to provide the city with a better deal than if they went out to the open market or is it going to be the other way around. Mr. LeBrun stated that it is very important that the contract that is ultimately agreed upon is in the best interest of the City of Concord. He added that staff believes that, if the Council does see fit to approve moving forward with this contract, that there really are four items that they want to bring forward that make contingency upon approving the contract: 1) the state enters into a contract with South Jersey Energy Company for the purchase of their electricity as approved by the Governor and Council this morning; 2) South Jersey Energy Company successfully enters into a contract with Concord Power and Steam for the purchase of power within 60 days of tomorrow; 3) the PUC approves a special steam rate for the city that's the same or better than what the state has received; 4) allowing the city to continue the negotiation of the contract language to be in the best interest of the city.

Purchasing Manager Doug Ross indicated that the city received the final contract yesterday, it's fairly complex, it involves an extended period of time, and involves a fair amount of money. He noted the importance of the city doing its due diligence and to make sure that the contract that is ultimately signed is in the best interest of the city.

Councilor Shurtleff noted that he knows that the city will be paying a far lesser rate for steam but understands that they will be paying greater than fair market value for electricity. He asked whether the reduction in the price of steam nullifies the extra the city will be paying for electricity. Mr. LeBrun responded that he feels that there are three components to this: 1) the reduced price in steam; 2) the increased cost in electricity; 3) the pilot agreement that the city would be receiving. He stated that if the deal doesn't happen, the city doesn't get the pilot agreement which is money that the city would not ultimately receive on an annual basis and if the deal isn't done, the city wouldn't see the reduction in steam prices, so there would be increased steam prices over time or they would have to do something different for the campus. He added that they would still be subject to open market for the electricity costs. Based on the report that the consultant put together, based on the way that the numbers were calculated, it still looks like it's a positive deal for the city if everything comes together. He cautioned the Council that they are talking about a 20 year agreement which is much longer than what the city typically enters into.

Councilor Nyhan noted that when this first came before the Council, residents weighed in and for the most part were supportive of the project. He added that there were also discussions about potential neighborhood improvements associated with this project in particular because of traffic going down South Main Street and doesn't see this language within this. Mr. Baia responded that if he recalls correctly, the site plan for Concord Power and Steam has improvements to Langdon Avenue and the intersection of Langdon Avenue where it meets up with South Main Street. He added that he doesn't recall any additional off site improvements and stated that their traffic numbers were relatively low; small number of employees and 24 or 28 trucks per day coming in and out of the facility. Councilor Nyhan indicated that he had a vague recollection that there would be some improvements at the intersection of Broadway and South Main Street. He noted that the general question is relative to off site improvements in the neighborhood, will there be any and if so, what are they.

Councilor Blanchard noted that water will be pumped out of the Merrimack River and inquired as to how much and that it is her understanding that they are limited as to how much water is supposed to be taken out of a river. Mr. Baia responded that as far as the amount of water, he is going to ask that they answer that as part of their contribution to the public hearing but noted that staff did have a concern about the city's demand and that there is actually a provision in there to which the master plan anticipates is that by the year 2030, they would have to draw from the Merrimack River. He stated that there is a protection for the city, that should they get to a point in which this is necessary, that the city would provide notice to Concord Power and Steam within 180 days saying that they have to come up with a solution and if in fact they have to take them off, the city would give them two years to find an alternative for themselves. Councilor Blanchard asked if their only alternative would be to drill wells. Mr. Baia responded that they could drill wells or use gray water which is water that has been through the wastewater treatment process. He added that using this water was not in Concord Power and Steams best interest but they anticipate that perhaps in the future there might be a different alternative, different machinery, different technology could be one way they could do that to keep their plant viable. Councilor Blanchard inquired as to why there wasn't a plan to force them to do an alternative now in lieu of pumping from the Merrimack River. Mr. Baia replied that right now, the agreement that was approved last year that is still being reviewed today, is that they are pumping from the Merrimack River and if the city needs to get to that water for the city's drinking water purposes, the city has that right to tell them to stop using from the river. Councilor Blanchard questioned that if this moves forward, whether this is going to mean a substantial decrease in heating costs for everybody else in the city that currently uses Concord Steam. Mr. Baia responded that the Concord Steam representatives have always indicated to staff since day one that one of the benefits of building this plant is that there would be substantial reductions in the steam rates that he believes that he has heard as high as 40 percent.

Referencing scenario one within a report, Councilor McClure noted that it sounds like the costs are based on a 6.7 percent increase in steam costs indicating that it states "average annual increases from CSC" questioning whether this is the increases that the Concord Steam plant has given the consultant. Mr. LeBrun responded that this is the average increases that the city has recognized over the past five years. Referencing scenario 2, Councilor McClure noted that this relates to costs escalating at 2.6 percent which is the average GDPIDP. She inquired as to what this means. Mr. Baia responded that this is the gross domestic product implicit price deflator which is the cost of living index and explained that the reason that they use this one versus CPIU is that in negotiating the pilot originally, Mr. Bloomfield has indicated to staff that a lot of their contracts in the industry are tied to this cost of living index. This has been included to be consistent. Councilor McClure questioned which scenario is the most likely. Mr. LeBrun replied that there are inherent risks in negotiating a deal like this. He explained that they used, in scenario 1, the actual increases that the city has recognized over the past few years, recognizing that those increases seem somewhat high they came up with another scenario that if those increases weren't that high, what would the results be. He indicated that the consultant did put together another scenario showing, based on what those price inflators typically would be. He stated that there are two different scenarios so that there is a high and a low and to see what the impact of benefit to the city would be based on both of those scenarios. Councilor McClure asked whether scenario 2 is a worst case scenario. Mr. LeBrun responded no. Councilor McClure clarified questioning in terms of benefit to the city. Mr. LeBrun replied that, based on the assumptions that were made in the proposal, if some of those assumptions don't come to fruition then these numbers, even in scenario 2, would be a lower savings to the city and lower benefit to the city overall. Councilor McClure asked staff to talk a little about what those assumptions are that are the riskiest. Mr. LeBrun replied that this may be a better question for the city's energy consultant. Councilor McClure indicated that Mr. Baia had talked about the comparison of the pilot to fair market value assessment and used the example of a big box store asking whether this is an appropriate comparison. She stated that she sees Concord Steam as an industry or a manufacturing facility and asked how they are assessed compared to a "big box" store and asked if this is an accurate comparison of what a fair market value assessment would be. Mr. Baia responded that what staff did originally was looked at this property and what it is zoned for. He noted that retail comes to mind in which they looked at retail, not necessarily a "big box" but of which could be a strip shopping center, supermarket, etc. He stated that he looked at it as comparing alternatives looking at this versus what probably would have.

Councilor Coen noted that if Council votes affirmatively for all five of these requests this evening it doesn't sound like it locks the city in to this contract because they still have to have a PUC approval and some other issues going forward. He asked what happens next if Council votes in the affirmative. Mr. Baia replied that the PUC approval is critical because the steam savings are tied to the PUC rate. He noted that if Council is going to approve this evening with the conditions that Mr. LeBrun had cited, the city is going on good faith that they can resolve any kind of negotiation of a contract. He pointed out that this is a contract like a number of other contracts but just has different parameters to it but staff feels that they can resolve those issues. He added that it is difficult to say in less than 24 or 27 hours review. Mr. Baia explained that what they anticipate happening, if Council approves with those qualifying conditions, staff would do everything possible between tonight and tomorrow to get a revised agreement to South Jersey and Mr. Bloomfield, giving them opportunity to review it. He added that if they got to an issue in which it could not be resolved, staff would bring it back to Council as concerns that could not be mitigated, at least administratively. City Manager Tom Aspell added that this would only be an issue in which staff felt it was not in the best issue of the community.

Councilor St. Hilaire noted that the large contingencies really just hinge on is the city going to get the same rate as the state on the electric contract because the PUC has to approve this. Mr. Baia clarified that it is for the special steam rate. Councilor St. Hilaire questioned aside from this, the South Jersey Company having to sign, and Concord Steam getting their financing based on this, what are some of the other contingencies that the city is looking for. Mr. Lebrun responded that it ultimately ends up being the final contract language that the legal department is willing to sign off on. He added that they are still reviewing some of the wording changes and they want to make sure that the language is in the best interest of the city. He further added that the consultant has a couple of issues that they want to make sure are addressed. Councilor St. Hilaire asked if there were any issues that they can already see that would be an issue. Mr. LeBrun replied that there weren't any big items that were issues, the big one that they talked about was asking for a parental guarantee of the company they are going to be entering into a contract with.

Councilor Stetson questioned whether there is a penalty if they don't get the plant done on time and the city has to go to an outside market to purchase. Mr. Ross responded that this is one of the issues that is still outstanding that they are still working on. Referencing the contract, Councilor Stetson pointed out that there is a penalty clause if the city uses too much power and a penalty clause if the city uses too little power. Mr. LeBrun replied that this is another issue that they are working on.

Referencing the timing issue in regards to 10 years and the additional two 5 years, Councilor McClure questioned whether both parties decide whether it's going to be renewed or is it just one party that decides. Mr. Ross responded that it is mutually agreeable.

Mayor Bouley opened the public hearing for items A through E.

Public Testimony

Peter Bloomfield, Concord Steam and Concord Power and Steam President, Mark Saltsman, Concord Steam and Concord Power and Steam Vice President, and Richard Uchida, Orr and Reno Law Firm, introduced themselves before the Council.

Mr. Bloomfield indicated that the only off site improvements that they were required to do for the approval as they got through the Planning Board and Zoning Board were working the intersection on South Main Street and Langdon Avenue, the conservation easement around the marsh and the wetlands area on that property, and a walking trail around that property that is accessible to the public. He noted that this was the extent of what the Planning Board felt was necessary for them to do for issues relative to traffic. On the issue on water use, he stated that the plant uses roughly 350 gallons per minute and one of the things that they are going to be doing is seeing about drilling some wells and looking for alternative sources immediately. He stated that there will be a significant reduction in steam cost to the rest of the customers noting that the city with its deal that it has because it's buying power, the reduction in steam cost is probably going to be in excess of 45 percent and the remainder of the customers will have a steam sale reduction in the neighborhood of 25 to 30 percent. Referencing a question on similar buildings, Mr. Bloomfield explained that they had done an analysis on this as to what would the property tax be if it was something else there and one of the biggest, higher used and expensive options would be more office space. He noted that for the space that the power plant takes, which is not the whole property, if an office were to use this, the property tax resulting from this would be in the neighborhood of $150,000 per year. Mr. Bloomfield stated that if they have to rely on the PUC in getting their approval out, it could come in sometime in the next day or so or early next week but they have no control over that and it could take 2 to 3 weeks further. He indicated that they are on an extremely tight timeframe and if they don't start construction before the end of this year, then the project doesn't happen because in order to qualify for something in the neighborhood of $25 million worth of federal tax credits and federal grants, they have to start before the end of this year. He noted that as an alternative to relying on the PUC approval, Concord Power and Steam will commit to paying the difference in the steam bill to the city if the PUC contract is not approved as presently proposed.

Mr. Saltsman added that it's not that they don't believe that they think that there is any reason why that won't get approval, this is not the issue, the issue is how timely it will be and will it be in the kind of timeframe that they need to in order to get the financing shoe to drop so that they can get this project started on time in order to qualify for the necessary grants. He indicated that the PUC staff has come out with recommendations to approve that contract, they send that to the commissioners and the commissioners look at the recommendations and act upon those. He noted that they have every reason to believe that approval is forthcoming but doesn't know if it will be in two days or two weeks.

Councilor Coen asked that when they were talking about the rate and if the PUC comes out with a different number and that they would make it whole for the city, was this something that city staff has not heard yet. Mr. Bloomfield responded that this is something that they just talked to Mr. Baia about late this afternoon so it is brand new.

Councilor McClure inquired as to how they are coming up with the percentages for savings further asking what they are based upon and what assumptions they are making. Mr. Bloomfield responded that they have projected costs for what the new plant is going to cost to operate so they know how the steam is that is coming out of the new facility. He explained that the primary advantage to Concord Steam is that they will no longer have to have to operate all of the equipment, maintain all of the equipment, and all the people that it takes to operate the equipment. He noted that what the arrangement includes is that Concord Steam will pay a share of this but with the plant base loaded and making 100 percent of its output at any one time, all the time, the cost of operating this facility is being spread over a much wider base and so the cost to Concord Steam for operating the steam plant is much smaller than it is now. He added that their significant savings come from spreading their operating costs over a much wider base than they are now. Councilor McClure noted that these are really based on what Concord Steam anticipates how the costs are going to decrease for them to produce the power. Mr. Bloomfield confirmed that to be correct. Councilor McClure asked for confirmation that this is not related to the assumptions in scenarios 1 and 2 in Ms. Greenblatt's report. Mr. Bloomfield responded that he believes she is right noting that he has not seen Ms. Greenblatt's report.

Mayor Bouley noted that he thinks he knows well how this works for Concord Steam and the advantages that they get for doing this. He asked that they spend some time as to why this is a good thing for the City of Concord and how it is positive for the 132 properties affected. Mr. Bloomfield indicated that there are 130 customers in their service area and a significant portion of their load is state, city, school district, and federal buildings roughly 50 percent of their load. He indicated that the remainder is the downtown stores and office buildings. He noted that the reduction in steam costs, if this happens, will benefit that whole downtown area and the payments they will be making in terms of property taxes are significant. He stated that some of the bigger issues they see as they are going to have a construction project that they will be spending over $70 million over the next two years and there will be 300 to 500 construction jobs that the city will see over the next couple of years and there will be an additional 20 to 25 employees at the new power plant on an ongoing operational basis plus, because of the fuel that they are using is wood chips, the money they are spending on fuel is going to be in the neighborhood of $11 million a year which all stays within a 30 to 50 mile radius of Concord so that landowners, loggers, truckers and small businesses will benefit from this. He stated that the other half of the operating costs are labor, maintenance expenses which is another roughly $4 million a year that the plant will be spending to keep its operations going. He stated that the softer reason is the fact that they will be burning wood, they'll be effectively replacing the equivalent of 10 million gallons a year of fossil fuel. That electricity is renewable and carbon free. He noted that if Council approves this, the city will be saving money on its energy bill, the city is receiving significant tax revenue, it's helping the economy, and doing good green things for the environment.

Mr. Saltsman added that when they were last in front of the Council in April 2010, they also noted that in addition to the tax advantages that the city gets from the pilot there are fees and the rent for the pumping station at the Hall Street treatment plant, taxes on the infrastructure in the city that they are going to have to create for the steam network. He further added that the conservation easement is coming into place, it's the last piece that is needed to protect the south end marsh.

Councilor McClure inquired as to how dependent they are upon the federal grants and how secure are they. Mr. Bloomfield responded that they are very dependent upon them and explained that they are a qualifying project because it burns wood chips therefore they qualify for a 30 percent investment tax credit. Councilor McClure pointed out that earlier it was indicated that there are proposed to be 24 trucks going in and out of the plant each day and stated that she recalls a larger number questioning what their projection was for the number of trucks that would be coming in and out of the plant along South Main Street. Mr. Bloomfield agreed that it was more noting that he believes that number to be 35. Councilor McClure stated that she recalls 40. It was confirmed that the number is between 30 to 40. Mr. Bloomfield added that he believes that was based on the current experience on Pleasant Street. Councilor McClure stated that she believes it was a projection based on the increased amount of wood chips that would be needed for the new plant. Mr. Bloomfield indicated that they currently burn 50,000 tons per year and are planning on burning 250,000 tons per year.

Councilor Nyhan noted that he recollected 40 trucks as well. He indicated that during the neighborhood meetings it was brought up that dumping of these trucks wouldn't necessarily be occurring 24 hours a day and that there was going to be limited operation during normal business hours so as to not impact residents. Mr. Bloomfield responded that to be correct noting that they are planning on only receiving wood five days a week, approximately 7:00 a.m. to 7:00 p.m.

Bill Wagner, representing groups interested in investing in this project, indicated that his purpose is to assure the Council that this project will be financed. He stated that there are three criteria for doing these kinds of deals: 1) the technology is proven; 2) the management is experienced; 3) the business plan makes sense. He noted that the groups that are interested in financing do financing in alternative energy and have stayed with this project simply because they know that it's the right project for the community and the best benefit for everyone. He assured that it will be financed, it will get done and if the grants do dry up, it will still be financed.

After a short recess, Mayor Bouley indicated that he didn't close the public hearing because there was a question posed as to whether Council would consider an alternative to one of the criterias. He explained that, during the recess, staff, Concord Steam representatives and Ms. Greenblatt discussed this and he asked that they report back what they believe they found, give Council the opportunity to ask questions, and since it is new he would like anyone in the public to speak to it.

Mr. Baia stated that staff is amenable to accepting a condition in lieu of the PUC approval recognizing the limitations they are working on in terms of time. He noted that one of the things that they had to struggle with was to find a mechanism that would afford the easiest and safest way for the city to make up for that difference if it was not approved. He stated that what they agreed to is to propose to have an addendum to the existing pilot agreement that's before Council this evening that would indicate that whatever that difference is, if the PUC doesn't approve the steam rate, that Concord Power and Steam will make up that difference directly to the city so that it would be an additional amount to the pilot payment but that additional amount will only be for the city. He added that there will be a clause in there that should the PUC approve the special tariff rate then that is null and void. Mr. LeBrun added that this language would need to be vetted out by the city's Solicitor to make sure they have the proper language and terminology.

Mr. Bloomfield noted that they agreed stating that he was hesitant to open the pilot up again because of the time spent getting the pilot all agreed to but a simple addendum to the pilot will work well.

Councilor Nyhan referenced an issue that Councilor Stetson raised earlier relative to the city essentially held to a floor to ceiling rate usage otherwise there are penalties built into there.

Beth Greenblatt, Beacon LLC, noted that there are four areas that she feels deserve some discussion relative to risk: 1) the counter party that the city would be engaging into a contract with – they are less known in this market but certainly have a portfolio of work they have done in other states and in the State of NH. She noted that one of the things that they are looking to do as part of the contract negotiations is to ensure that they mitigate and protect against any risks associated with working with a counter party that's not as known to the city; 2) the city is in process of implementing the first of two phases of an energy conservation program so they can anticipate seeing some changes in the city's usage and it needs to be addressed as a part of this contract. She can see in the initial pass by the City Solicitor that there's been some adjustment made to that and feels that this is one area of negotiation that the city will want to do with the contract to protect themselves from swings beyond that five percent; 3) there are risks with fuel in any electricity deal because the underlying embedded fuels are relatively volatile; wood fuel has so far tended to be less volatile as been crude but given that there is no real transparent market available to watch the wood market, they have less information available; 4) the renewable energy credit market – the pricing for renewable energy credits is subject to a robust market and based quite a bit on regulations and policy to the extent there are changes in state or regional regulation and policy which could very well have an impact on the value of the renewable energy credits.

Councilor St. Hilaire referenced the five percent up or down on the usage of the electricity and the fact that the city may have to incur some sort of penalty and the fact that the city contracts out 50 percent of it's electricity through other carriers. He asked whether this would actually hedge against the risk of the first instance if you can take a percentage off the other 50 percent of their portfolio and switch that usage on the other side so they wouldn't incur a penalty if the city didn't use as much electricity. Ms. Greenblatt responded that what this contract is covering is two defined accounts in the city's portfolio. She stated that 50 percent of the load is covered by the city's water and wastewater treatment plants and this contract is supporting those two specific utility meters indicating that it is important to note that the usage on these accounts is relatively stable but still they are working with an energy savings performance contractor to reduce the loads on those two plants and want to make sure that the city doesn't immediately put themselves in a position which will go one way or another. She added that there will be a provision in the contract to allow for additional accounts to be put under this contract and the details of that are not fully flushed out and that's one of the things that they would like to do in the contract document itself.

With regard to the swing and the target load, Councilor Nyhan asked how the target load is determined. He pointed out that it keeps being indicated that staff needs to work on a compromise to address this asking if this is just an increased percentage or going to adjust the loan target. Mr. LeBrun replied that it's really just the adjustment of the swing more than the low target. He noted that the low target really is the amount of energy that needs to be produced or purchased from Concord Power and Steam in order to make the overall project work. Councilor Nyhan questioned whether the target load had anything to do with the city's usage. Ms. Greenblatt responded that the target load is based on historical usage and in talking directly with Concord Power and Steam, the volume that they were looking to buy was a little less.

Mr. LeBrun thanked Ms. Greenblatt and Doug Ross for all their work on this.

Mr. Bloomfield commented how flexible city staff has been to make this happen and are extremely impressed with their work and ability to respond to them at a moments notice.

There being no further public testimony, the Mayor closed the hearings for items A through E.

B. Special Contract between the City of Concord and Concord Steam Corporation. (6Sus5), (7-4B) *(Revised contract submitted)* ***(Public hearing recessed on August 10, 2011)***

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

C. License Agreement Hall Street Right of Way. (6Sus6), (7-4C) ***(Public hearing recessed on August 10, 2011)***

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

D. License Agreement Hall Street Wastewater Treatment Plant. (6Sus7), (7-4D) ***(Public hearing recessed on August 10, 2011)***

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

E. Contract for electricity between the City and a to be determined third party supplier. (6Sus8), (7-4E) ***(Public hearing recessed on August 10, 2011) (To be submitted under separate cover)***

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

August 24, 2011 Public Hearing Action

5. Report from the Deputy City Manager – Development recommending a public hearing be held on a Payment in Lieu of Taxes (PILOT) agreement between the City of Concord and Concord Power and Steam, LLC. (6Sus4), (7-4A)

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

Councilor Nyhan asked whether the pilot agreement would include the addendum that was discussed this evening.

Mr. Baia explained that if all the extensions are taken in the pilot it actually ends in 2029 and if you take the extensions in the other agreements they go to 2033. He noted that he asks that a condition be placed on the approval to allow staff to make everything reconcile.

Councilor Nyhan moved to direct staff to make the necessary changes to make the dates coincide. The motion was duly seconded.

Mayor Bouley questioned whether Councilor Nyhan was referring to the dates or the actual addendum. Councilor Nyhan responded both explaining that the addendum is the one relative to the PUC rate differential. Mayor Bouley noted that he believes that the rate differential will be taken up in item 9. Following Council discussion, Mayor Bouley asked whether they would be amending 9 or amending 5. Mr. Baia clarified that there is an addendum to the pilot so it seems logical to staff that it would be taken up in this context and when Council gets to the contract, they would remove the contingency based upon the PUC approval.

Councilor Nyhan's motion to direct staff to make the necessary changes to make the dates coincide passed with no dissenting votes.

Mr. Baia asked and read the way in which Councilor Nyhan's second motion should be worded. The motion should be "in lieu of not receiving New Hampshire Public Utilities Commission (PUC) approval of a special contract for an initial base steam rate to the City of Concord by August 24, 2011, Concord Power and Steam agrees to compensate the City of Concord in the amount of the difference between the standard PUC steam rate and what the special contract for an initial base steam rate would have been had the PUC approval been secured by August 24, 2011. Said difference will be paid in addition to Concord Power and Steam's PILOT payment as outlined in the PILOT approved on August 24, 2011 exclusively to the City of Concord. Should PUC approval for the contract for the special contract for an initial base steam rate be secured, this addendum becomes null and void."

Councilor Nyhan made the motion in lieu of not receiving New Hampshire Public Utilities Commission (PUC) approval of a special contract for an initial base steam rate to the City of Concord by August 24, 2011, Concord Power and Steam agrees to compensate the City of Concord in the amount of the difference between the standard PUC steam rate and what the special contract for an initial base steam rate would have been had the PUC approval been secured by August 24, 2011. Said difference will be paid in addition to Concord Power and Steam's PILOT payment as outlined in the PILOT approved on August 24, 2011 exclusively to the City of Concord. Should PUC approval for the contract for the special contract for an initial base steam rate be secured, this addendum becomes null and void. The motion was duly seconded and passed with no dissenting votes.

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

6. Special Contract between the City of Concord and Concord Steam Corporation. (6Sus5), (7-4B) *(Revised contract submitted)*

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

7. License Agreement Hall Street Right of Way. (6Sus6), (7-4C)

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

8. License Agreement Hall Street Wastewater Treatment Plant. (6Sus7), (7-4D)

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

9. Contract for electricity between the City and a to be determined third party supplier. (6Sus8), (7-4E) ***(To be submitted under separate cover)***

   Action: Councilor St. Hilaire moved to authorize the City Manager or his designee to enter into a ten year agreement with South Jersey Energy Company with two 5 year options for approximately 4,300,000 kilowatt hours of electricity with the following conditions: 1) that the State of New Hampshire enters into a contract with South Jersey Energy Company for the purchase of their electricity as approved by the Governor and Council on August 24, 2011; 2) South Jersey Energy Company successfully enters into a contract with Concord Power and Steam for the purchase of electricity from Concord Power and Steam within 60 days from August 25, 2011; 3) the city negotiate the minor contract language with the contractor. The motion was duly seconded.

   Councilor St. Hilaire noted that it is his understanding, assuming that this motion passes, that in essence aside from the minor contract language that Concord Power and Steam and the City of Concord will have an agreement that is pretty much signed and that they will be able to take to their investors to proceed with the financing piece. He stated that his suspicion is that the city staff won't be coming back unless they find something glaring that basically this is it, it's going to be done because they have worked out all major pieces this evening. Mayor Bouley agreed indicating that this is his understanding also.

   Councilor St. Hilaire's motion passed with no dissenting votes.

Comments, Requests by Mayor, City Councilors

Councilor Nyhan recognized the General Services Department for the improvements made to the restrooms at Memorial Field.

Referencing the CPPA contract, Mayor Bouley indicated that there is a tentative agreement that he would like Council to vote on this evening. He stated that the agreement consists of a three year agreement with a 0% increase in COLA for the first year; .5% increase in COLA for the second year; a range of 0% to 1.5% increase in COLA for the third year.

Councilor Nyhan moved approval of the CPPA contract. The motion was duly seconded.

Mayor Bouley thanked City Administration for working with Council and negotiating. He expressed his thanks to the Police Patrolman's Association.

Councilor Nyhan's motion to approve the CPPA contract passed on a voice vote.

Councilor St. Hilaire informed Council and residents that the Library of Congress is having an 18 wheel truck coming to Concord next week, August 30th and 31st, at the State House

Plaza. He explained that the truck opens up into a display area with many of the displays that one would see at the Library of Congress.

Adjournment

The time being 9:22 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