

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, FEBRUARY 1, 2016

PORTSMOUTH, NH
TIME: 6:15PM [or thereafter]

At 6:15 P.M., An Anticipated "Non-Meeting" with Counsel was held on Potential Litigation regarding Middle School Construction in Accordance with RSA 91-A:2, I (b).

I. CALL TO ORDER

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

II. ROLL CALL

Present: Mayor Blalock, Assistant Mayor Splaine, Councilors Perkins, Dwyer, Lown, Pearson, Spear, Cyr and Denton

III. INVOCATION

Mayor Blalock asked everyone to join in a moment of silent prayer.

IV. PLEDGE OF ALLEGIANCE

Councilor Spear led in the Pledge of Allegiance to the Flag.

PRESENTATIONS

1. Veterans Count Fundraiser

Representatives from Veterans Count Fundraiser explained the Eagle Parade sponsor opportunities by local businesses whereby each eagle would be decorated by a local artist and displayed from July 1, 2016 through October 31, 2016 then auctioned off. The representative reported that Veterans Count is a voluntary organization which is part of Easter Seals.

City Manager Bohenko said the majority of the eagles would be displayed inside and possibly 5 or 6 outside and Art-Speak would be involved with Public Works reviewing the placement of the eagles. He said he would provide a report back to the City Council on the number of eagles that will be displayed outside.

Councilor Lown moved to refer this matter to the City Manager with power as well as Art-Speak for input. Seconded by Assistant Mayor Splaine and voted.

2. LED Streetlight Pilot Program

Jacob Levenson, Recycling Coordinator provided a presentation and spoke to the current lighting technology in the City and the cost and savings we would realize by converting to LED Equipment. He reported that there are 1,687 total streetlights in Portsmouth mostly with 50 watt bulbs. He said the annual cost to the City is \$272,513.00 compared to the cost of LED streetlights which would be \$150,265.00 annual cost to operate. He said there would be a \$122,248.00 savings from reduced electricity rates. Recycling Coordinator Levenson reported the environmental benefits, lower energy costs and improved quality of light. He announced that 3 pilot lights will be placed outside City Hall in the Parking Lot.

3 Update on the Construction of the Peirce Island Wastewater Treatment Facility and Bonding Request

Terry Desmarais, City Engineer and Suzanne Woodland, Deputy City Attorney provided a Presentation on the Wastewater Treatment Facility at Peirce Island. City Engineer Desmarais provided a history and a timeline for the facility. He announced that the cost estimate for the total project would be \$83.8 million dollars. The request this evening is to bring a bond authorization resolution in the amount up to \$75 million dollars to the City Council February 16th meeting. City Engineer Desmarais reported that the lock in interest rate of 2.55%, a principal forgiveness of 5% (\$2.5M to \$3.7M) and a 20 year loan term. Deputy City Attorney Woodland addressed the consent decree negotiations. She stated under the existing consent decree the document stands with a completion date of May 2017.

City Manager Bohenko said he would like to bring back the first reading on the bonding at the February 16, 2017 City Council meeting.

Councilor Lown moved to bring forward for first reading at the February 16th City Council meeting a bond authorization resolution in the amount of \$75,000,000.00. Seconded by Councilor Denton.

Councilor Pearson asked if there is an estimated date for when the island would be closed. City Manager Bohenko said it is their intention to keep the pool open through the construction and they're looking at temporary beach housing facilities.

Motion passed.

V. ACCEPTANCE OF MINUTES *(There are no minutes on for acceptance this evening)*

VI. PUBLIC COMMENT SESSION

David Beadling said he lives near the area of the demolition of 140 Thornton Street and feels there needs to be a way to evaluate the conditions a demolition would have on a neighborhood. He said what will take the place of the home after it is destroyed is unknown. He stated there are a rash of potential home demolitions coming up and it will affect the current fabric of the neighborhoods.

Roy Helse spoke on the density of buildings on Middle Road between Islington Street and the tracks. He said these high density buildings should not be built in these areas.

Esther Kennedy said she would like to see the Wastewater Treatment Facility built at Pease. She encouraged the City Council to ask what additional cost would be related to the project. She said the height of the building will change the landscape of the City. She requested that the plans for the project be placed on the website for access by the public. Ms. Kennedy said the impact this will have on the homes in the area needs to be evaluated and spoke to the fragile foundations of the homes.

Rick Becksted said he agrees to disagree with the demolition ordinance. He said the City has been here before 20 years ago when the City created a Historic District B in areas and the affects they had on neighborhoods.

Mark Brighton spoke on the purchase of the Deer Street at a price of \$5.1 million. He said the site has contamination issues and said there needs to be another appraisal done on the property.

Joan Walker spoke against tearing down the home at 140 Thornton Street just to build a larger home. She said someone should not be able to demolish a home because it no longer fits the needs of the individuals.

Cliff Lazenby said he has been contacted by neighborhoods in the Thornton Street area regarding the demolition of 140 Thornton Street. He said it is not appropriate for the Neighborhood Committee to take a position on the demolition ordinance as the Committee needs to represent all neighborhoods throughout the City.

Joann Adinolfi spoke regarding the demolition ordinance and the need for more checks and balances. She said we must tread carefully and learn from our past history with the urban renewal.

Sally Struble said there needs to be a mechanism to speak on demolition and this is a concern for all over the City and people want to be heard.

Kathy Malsendan spoke in support of Assistant Mayor Splaine's ordinance. She said people need to have respect for the neighborhoods that have been built. She feels there needs to be public input on demolition and people want a chance to be heard and to air their concerns that are impacting a whole neighborhood.

Daphne Bureau said she owns a home on Thornton Street and does not see the need for the home at 140 Thornton Street to be demolished. She presented a petition containing 93 signatures in support of Assistant Mayor Splaine's demolition ordinance.

Uarsten Pohl spoke to the Thornton Street neighborhood and the home at 140 Thornton Street should not be demolished because it is not considered large enough by the new owners. He said this is not a hardship and there should be no demolition of the structure.

Jerry Zelin said he agrees with comments made by Mark Brighton and the need for another appraisal of the Deer Street property. He expressed concern relative to the contamination at the site and commended the City staff for getting the report on this matter.

Nancy Brown said she strongly supports the previous speakers and the need to protect the neighborhoods. She does not support the demolition of 140 Thornton Street and said we need transparency on this matter. She also expressed her support of Assistant Mayor Splaine's demolition ordinance.

VII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Roy Helsel, President, Riverbrook Condo Association requesting an annual abatement on water/sewer and trash removal costs

City Manager Bohenko asked that this letter be referred to his office for report back.

Councilor Lown moved to refer to the City Manager with power and report back. Seconded by Councilor Spear and voted.

VIII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

- 1. Request to Renew Seacoast Growers' Association (Farmers' Market) Proposed 2016 License Agreement

City Manager Bohenko said this is a request to renew the Farmers' Market License Agreement at the Municipal Complex. He said attached are the Seacoast Growers' by-laws and a map of the market and parking. He reported that the Farmers' Market has been located here at the Municipal Complex for over 10 years. He said they have looked at spaces downtown but there are logistic issues.

Councilor Lown moved to authorize the City Manager to enter into a License Agreement with Seacoast Growers' Association for 2016, as presented. Seconded by Councilor Spear.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he attends the Farmers' Market and the move to the Municipal Complex was a great move.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Motion passed.

2. Request for Approval of Teachers' Retirement Incentive

City Manager Bohenko asked Superintendent Stephen Zadrevac to make a presentation on the proposal.

Superintendent Zadrevac said the School Board voted to move forward with this incentive for the Memorandum of Understanding for the FY16 contract. He said the purpose of this program was to provide an incentive to long term employees who are eligible to retire. He stated the savings would be achieved by replacing employees at the top of the pay scale with new employees who would be paid at a lower rate. He said the eligible members have to file an irrevocable commitment to retire from the district on or before February 9, 2016 and who actually retire under the NHRS at the end of the 2015-2016 school year. He reported that the School Board has done this for 3 years however, the incentive was not offered last year and it is something that individuals should not expect every year.

Councilor Spear moved to approve the request to offer a retirement incentive to teachers, as presented. Seconded by Councilor Lown.

Councilor Dwyer asked if payments come out of this year's budget. Superintendent Zadrevac said yes.

Motion passed.

B. MAYOR BLALOCK

1. Appointments to be Voted:
 - Appointment of Nicholas Kirsch to the Cable Television Communication Commission as a regular member
 - Appointment of Clayton Emery to the Cable Television Communication Commission as an Alternate member
 - Appointment of Stefany Shaheen to the Economic Development Commission
 - Appointment of Lawrence Cataldo to the Citywide Neighborhood Steering Committee
 - Reappointment of Francesca Marconi Fernald to the Peirce Island Committee
 - Reappointment of Lisa Louttit to the Peirce Island Committee
 - Reappointment of Steven Marison to the Peirce Island Committee
 - Reappointment of John McVay to the Peirce Island Committee
 - Reappointment of Sylvia Olson to the Peirce Island Committee
 - Reappointment of Stephen Philp to the Peirce Island Committee
 - Reappointment of John Simon to the Peirce Island Committee
 - Reappointment of Richard Smith to the Peirce Island Committee
 - Reappointment of Marc Stettner to the Peirce Island Committee
 - Reappointment of William Townsend to the Peirce Island Committee
 - Reappointment of Harold Whitehouse to the Peirce Island Committee
 - Appointment of Jody Record to the Planning Board as an Alternate member
 - Reappointment of Elizabeth Moreau to the Planning Board

- Appointment of Thomas Ferrini to the Portsmouth Housing Authority
- Reappointment of Peter Bresciano to the Transportation Services Commission
- Appointment of Daniel Umbro to the Trees and Public Greenery Committee
- Appointment of Joan Walker to the Trees and Public Greenery Committee
- Reappointment of Thomas Watson to the Board of Trustees of the Trust Funds
- Appointment of Peter McDonell to the Zoning Board of Adjustment as an Alternate member

Councilor Spear moved to approve the entire list of appointments. Seconded by Councilor Lown and voted.

Appoint Nicholas Kirsch to the Cable Television Communication Commission as a regular member until April 1, 2018; appointment of Clayton Emery to the Cable Television Communication Commission as an Alternate until April 1, 2018; appointment of Stefany Shaheen to the Economic Development Commission until October 1, 2017 filling the unexpired term of Josh Cyr; appointment of Lawrence Cataldo to the Citywide Neighborhood Steering Committee until April 1, 2019; reappointments of Francesca Marconi Fernald, Lisa Louttit, Steven Marison, John McVay, Sylvia Olson, Stephen Philp, John Simon, Richard Smith, Marc Stettner, William Townsend and Harold Whitehouse to the Peirce Island Committee until December 31, 2017; appointment of Jody Record to the Planning Board as an Alternate member until December 21, 2018; Reappointment of Elizabeth Moreau to the Planning Board until December 31, 2018; appointment of Thomas Ferrini to the Portsmouth Housing Authority until April 1, 2021; Reappointment of Peter Bresciano to the Transportation Services Commission until December 31, 2017; Appointment of Daniel Umbro and Joan Walker to the Trees and Public Greenery Committee; reappointment of Thomas Watson to the Board of Trustees of the Trust Funds until January 1, 2019; and appointment of Peter McDonell to the Zoning Board of Adjustment as an Alternate member until December 1, 2017 filling unexpired term of Patrick Moretti.

Discussion followed regarding the policy for individuals being a resident in the City of 1 year prior to the appointment to a board and/or commission.

Mayor Blalock stated that the Council will receive copies of applications for consideration only but copies will not be provided when the applicant is to be voted on.

Councilor Spear also spoke on the policy for certain Boards to make quarterly reports to the Council and how we should have a report once a year in the summer. Mayor Blalock said he would follow up on this item.

C. ASSISTANT MAYOR SPLAINE

1. An Amendment to Chapter 14 Housing Code

Assistant Mayor Splaine moved that an ordinance consistent with the memorandum from Assistant Mayor Splaine come back to the City Council for first reading on February 16, 2016. Seconded by Councilor Denton.

Assistant Mayor Splaine stated the general outline deals with demolition and being open to change. He said he spoke to many people on this issue which stems back for 50 years with the urban renewal and the tearing down of virtually 30 acres of homes. He said there needs to be a collaboration and transparency with this matter. He said he would like the Building Commission to look into the matter. He said the Commission should look into the matter and hold a public hearing. He stated we need to put the brakes on quick tear downs. Assistant Mayor Splaine spoke to a meeting of the Zoning Board of Adjustment two weeks ago when people were told they could not address the issue of tear downs.

Councilor Lown said he appreciates the spirit the motion is being brought forward. He said on its face the ordinance feels reasonable however, in practice it won't work. He said this ordinance was tried before in 1982, the ordinance was passed to create a second Historic District Commission (Historic District B). He stated that ordinance required a property owner to apply for permission to demolish the home and the Historic District Commission would look at characters and 5 criteria applied by the Historic District Commission. He said the Ordinance was repealed because the ordinance was unworkable. Councilor Lown said the proposal is not respectful of private property rights. He said he would not support the motion.

Councilor Dwyer said she would like to propose something that would work. She said the underlining ideas are important. She said many people spoke on designs and variances. She said she worries about a couple of points will not do what we want to have happen. She does not feel the Building Commission is the appropriate board to hear this, there were public hearings in front of the Zoning Board of Adjustment. She said they won't have any criteria to stand behind. Councilor Dwyer said she would like to bring the Zoning Board of Adjustment, Planning Board and Historic District Commission key people in to try and figure out what would work. She would like to explore the connection of design description and define the character of a neighborhood whether there is a demolition, rehabilitation, renovation and design. She would like to have a work session on this matter.

Councilor Spear agrees with Councilor Lown and Councilor Dwyer and is confident the City Council will not pass first reading, as presented this evening from a process stand point. He does not want voting down to be the end of discussion here. He said we need to look at the problem holistically. He said there is time to look at a better way and step back and look at solutions to address the problems. Councilor Spear said he would like to have the City Council ask the staff to come back with parameters on our ability to control districts and how would character districts work. He said we need to look at all things together and come up with some good solutions.

Councilor Denton asked if we were to go the route of Councilor Dwyer are there legal tasks to meet.

Assistant Mayor Splaine withdrew his motion and Councilor Denton his second to the motion.

Councilor Spear said it is not limited in nature and the Building Inspectors should include a verbal component on objection, abutters and notices that might work. He said what the mechanisms would be to prevent demolition objections to the way the building would look. He said we could have a Historic District or character districts with a report back from staff and public dialogue.

City Manager Bohenko said it is important to follow the lead of what Councilor Dwyer said looking at this with other Boards. He said there is something in place that is defensible and we need to be careful not to over burden the process. He said we need to have enabling legislation in place.

Assistant Mayor Splaine moved to have the City Manager provide an outline to the City Council on how to contain the concerns expressed around the table with a report back the middle of March. Seconded by Councilor Spear.

Councilor Perkins said what is missing in the process is one standard that we could put in place and that is public input on design.

Councilor Lown said he would want this but expressed concern with the time it would take the staff to look at this.

Councilor Pearson said she is not sure that the ordinance would do what the neighborhood wants it to do. She said the North end urban renewal project happened 50 years ago and we are still experiencing the fall out from that and the decision made. She said we want to get this right and we are working together to solve problems.

Assistant Mayor Splaine said he appreciates the discussion around the table of the City Council and this is a good example of what can happen.

Motion passed.

IX. MISCELLANEOUS/UNFINISHED BUSINESS

X. ADJOURNMENT

At 9:20 p.m., Councilor Lown moved to adjourn. Seconded by Councilor Denton and voted.



Kelli L. Barnaby, MMC, CMC, CNHMC
City Clerk