

**CITY COUNCIL NON-PUBLIC SESSION RE: PEASE DEVELOPMENT AUTHORITY  
POLICE AGREEMENT – RSA 91-A:3, II (i) & ANTICIPATED “NON-MEETING” WITH  
COUNSEL RE: COLLECTIVE BARGAINING – POLICE AND FIRE CONTRACTS –  
RSA 91-A:2(a)**

PORTSMOUTH MUNICIPAL COMPLEX  
CONFERENCE ROOM A

MONDAY, AUGUST 15, 2016  
TIME: 5:45 PM

A roll call for attendance of City Council members present for the meeting was taken.

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

**STAFF PRESENT:** John P Bohenko, City Manager; Robert Sullivan, City Attorney; David Mara, Police Chief; and Kelli L. Barnaby, City Clerk

The following motions were taken in public session in the Eileen Dondero Foley Council Chambers.

**On a unanimous roll call 9-0, voted to enter into a Non-Public Session regarding Pease Development Authority Police Agreement in accordance with RSA 91-A:3, II (i).**

**On a unanimous roll call 9-0, voted to enter into a “Non-Meeting” with Counsel regarding Collective Bargaining for Police and Fire Contracts in accordance with RSA 91-A:2(a).**

Discussion followed regarding the Pease Development Authority Police Agreement.

**On a unanimous voice vote 9-0, voted to approve the Pease Development Authority Police Agreement.**

**“Non-Meeting” Regarding Collective Bargaining for Police and Fire Contracts**

**STAFF PRESENT:** John P. Bohenko, City Manager; Tom Closson, Negotiator; Dianna Fogarty, Human Resources Director; David Mara, Police Chief; Robert Sullivan, City Attorney; Kelli L. Barnaby, City Clerk

**OTHERS PRESENT:** Brenna Cavanaugh, Police Commissioner; Joe Plaia, Police Commissioner; Joe Onosko, Police Commissioner; Richard Gamester, Fire Commissioner

Negotiator Closson spoke regarding the Police Contracts.

City Manager Bohenko stated there would need to be a special appropriation if the contracts are approved for the funding and the funds would come from the Fund Balance account.

Negotiator Closson spoke regarding the Fire Contract.

At 7:20 p.m., Mayor Blalock adjourned the meeting.

**CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, AUGUST 15, 2016

PORTSMOUTH, NH  
TIME: 7:00PM

**I. CALL TO ORDER**

Mayor Blalock called the meeting to order at 7:25 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**

Former City Councilor Stefany Shaheen led in the Pledge of Allegiance to the Flag.

**PRESENTATION**

1. Portsmouth Little League 9-10 State Champions

Mayor Blalock presented a trophy to each player and coach in recognition of the Portsmouth Little League 9-10 for winning the State Championship.

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

**VI. PUBLIC COMMENT SESSION**

James Boyle said there is no title defect with his property. He spoke on the lawsuits with the City and said the City is trespassing on his land.

Merle White, Rye, NH, Anchor Taxi spoke on the work session to be held on the Transportation Services Commission. He stated that the taxi businesses are being destroyed.

Harold Whitehouse spoke regarding Peirce Island and the wastewater treatment plant. He said it is time to let go by the foes for the wastewater treatment plant to be built. He stated as of September 1<sup>st</sup> if construction does not start we could be facing fines by the EPA.

Mark Brighton spoke against the City Manager's contract being too generous.

Nancy Clayburgh spoke on the performance of the City Manager and asked that the City Council approve the contract before them. She said the City's interest rate is lower because of the work by the City Manager.

## **VII. PUBLIC INPUT SESSION**

- A. ON THE CITY'S CONTINUED PURSUIT OF A PUBLIC-PRIVATE PARTNERSHIP FOR THE REDEVELOPMENT OF THE MCINTYRE FEDERAL PROPERTY (62 DANIEL STREET) AND CONSTRUCTION OF A NEW FEDERAL FACILITY ON THE BRIDGE STREET PARKING LOT OR ANOTHER CITY-OWNED PARCEL IN THE DOWNTOWN BUSINESS DISTRICT

A brief Presentation was given by Deputy City Manager Colbert Puff on the McIntyre Building. She addressed the City's involvement on this matter and said that the City Council has a policy decision before them.

Principal Planner Cracknell spoke to the City's participation in the development of the site and addressed regulation requirements in the zoning ordinance.

Dave Rheaume urged the City Council not to use the Bridge Street lot for a new Federal Building. He said the space should be left open for green space for a park.

Michael Simchik, Rye, NH said that this development has been planned for years and he does not expect a development that is offensive. He addressed the last largest scale design in the area of the downtown was Portwalk and said it is not in the best interest to recast that development. He also stated that the general public is a stakeholder for the site.

Paul Mannle said he opposes the public/private partnership and stated the City should stick to the original agreement over 12 years ago. He stated if the GSA wants to remain downtown it needs to include the McIntyre Building and the Pease land. He suggested that the City create a park with the Old State House.

William Brassil spoke to the McIntyre Building becoming a park. He said he does not see the value of the GSA taking the building.

Rick Becksted stated it is important to preserve the buildings and the character of the downtown. He spoke regarding preserving Bridge Street and that if something is built at the location it should only be 2 stories.

Gregg Schroeder spoke on the building of the Old Statehouse being located to the McIntyre site. He spoke to the history of the building and feels the Old Statehouse should be returned to the City and preserved.

Monique Shevlin, West End Business Association, said businesses are moving to the West End and she expressed her opposition to building the Federal Building at the Bridge Street site. She said she does not understand the benefit the building would provide to the public.

Reagan Ruedig said the McIntyre site is vital to the downtown and that any changes should go through the Historic District Commission process.

Ed Carrier said we will look back on these times as the golden times. He spoke to the continued crowding of Market Square. He stated he would pledge \$10,000.00 if the City would construct a park at the Bridge Street site.

Eleanor Bradshaw said citizen input is important with this site. She would like to see the site remain for the public good. She said she would like to see the City create some great outdoor space.

Carrie of Portsmouth Advocates spoke opposed to the demolition of the McIntyre Building and spoke to the beautiful façade of the building. She said the Portsmouth Historical Society is against any building development of the site.

William Wagner said it is a policy decision for the City Council to make. He said the McIntyre site is an issue between the City and the GSA and much time has been spent on this matter to bring the GSA to the table. He believes that option 3 is the right way to go and the Council should move forward.

Jay McSharry said the Bridge Street lot cannot go any where until the parking issues have been solved. He stated there is still so much development taking place and parking is an issue.

With no further speakers, Mayor Blalock declared the Public Informational Session closed.

At 9:00 p.m. Mayor Blalock declared a brief recess. At 9:05 p.m. Mayor Blalock called the meeting back to order.

## **VIII. PUBLIC HEARING**

- A. RESOLUTION APPROPRIATING THE SUM OF ONE MILLION EIGHT HUNDRED FIFTY THOUSAND DOLLARS (\$1,850,000.00) FOR THE PURCHASE OF LAND FOR RECREATION FIELDS AND OTHER MUNICIPAL USES

Mayor Blalock read the legal notice, declared the public hearing open and called for speakers.

Assistant City Manager Moore provided a brief presentation. He stated that the acquisition of the property helps the City make progress on 3 priorities, development of athletic fields, the expansion of the recycling center and a space for passive recreation. He reported that 3 athletic fields would be constructed on the land.

Recreation Director Wilson said the addition of 3 athletic fields is a win-win for the City. He said that this is a one time option for the City and they should move forward in the process of obtaining the land.

Jackson Ragonese spoke in support of the athletic fields.

Priscilla Coughlin spoke in support of the construction of athletic fields. She said there is a desperate need for the fields and that this is a positive civic lesson for our children.

Tony Coviello spoke in support of the fields and that this is a quiet moment with a large affect on the community. He said that this is a quality of life matter.

Rick Becksted spoke in support of the Resolution and the addition of athletic fields. He stated the kids are sharing fields currently, which is not the optimum choice for the teams.

Paul Mannle spoke in support of the Resolution and the addition of athletic fields. He stated the City needs to address the traffic issues in the area and be proactive.

With no further speakers, Mayor Blalock declared the public hearing closed.

**Councilor Lown moved to suspend the rules to take up Item X.B. – Adoption of Resolution Appropriating the sum of One Million Eight Hundred Fifty Thousand Dollars (\$1,850,000.00) for the Purchase of Land for Recreation Fields and other Municipal Uses. Seconded by Councilor Spear and voted.**

X.B. Adoption of Resolution Appropriating the sum of One Million Eight Hundred Fifty Thousand Dollars (\$1,850,000.00) for the Purchase of Land for Recreation Fields and other Municipal Uses

**Councilor Spear moved to adopt the Supplemental Appropriation for \$1,850,000.00 using bond premium to purchase the land owned by the Foundation for Seacoast Health, as presented. Seconded by Councilor Lown.**

Councilor Spear asked if we have a number for the cost and when the work would move forward on the construction of the fields. City Manager Bohenko said we would put together more plans and discuss how to move forward on this matter. He further stated that the funding for this is from a bond premium we received and does not affect the tax rate.

Councilor Lown thanked the Foundation for Seacoast Health for allowing the City to purchase the land for these fields. He said the cost of building fields is a great deal of money. He spoke regarding drainage issues and that we need to be able to invest in making the fields correctly.

Assistant Mayor Splaine said this is one of the best locations for fields and will provide a good balance.

Councilor Denton said that this is a great opportunity to expand the Recycling Center and create a swap shop.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said that this is very exciting for the community and he would dedicate himself to getting the fields built.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

**On a unanimous roll call 9-0, motion passed.**

**X. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

- A. Third and final reading of Annual Omnibus Ordinance Change, Parking and Traffic

**Councilor Lown moved to pass third and final reading on the proposed Ordinance, as presented. Seconded by Councilor Dwyer and voted.**

**XI. CONSENT AGENDA**

- A. Letter from Zhana Morris, The Music Hall requesting Parking Meter Permit for 2016-2017 Season ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Carolyn Ostrom & Ed Harvey, Susan G. Komen Foundation requesting permission to hold the Race for the Cure 5K on May 13, 2017 at Strawberry Banke at 9:00 a.m. ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Mary-Jo Monusky, Arts in Reach requesting permission to hold the 4<sup>th</sup> Annual AIRWalk 5K Walk on Saturday, October 22, 2016 ***(Anticipated action – move to refer to the City Manager with power)***
- D. Acceptance of Donation of an antique leather helmet donated by Joshua Beede ***(Anticipated action – move to accept and approve the donation to the Portsmouth Fire Department)***

**Councilor Spear moved to adopt the Consent Agenda. Seconded by Councilor Lown and voted.**

**XII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Letter from Alfred Dolman regarding Proposed Redevelopment of the Bridge Street Parking Lot

**Councilor Spear moved to accept and place the letter on file. Seconded by Councilor Cyr and voted.**

### **XIII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

#### **A. CITY MANAGER**

##### **1. Deer Street Garage Property Acquisition**

City Attorney Sullivan reported that the vast majority of title issues have likely been resolved and it is time for the City Council to move forward with the acquisition of the property. He said there will be small decisions to be made right up until the closing of the property. He stated the City Council would give the final authorization to the City Manager to move forward with the acquisition of the property.

Councilor Spear asked if we buy the land can we build a parking garage on the site. City Attorney Sullivan said the City Manager would ask before the exchanging of funds that question, if we can build a garage on the site. City Attorney Sullivan said he believes the City will be able to build the garage right away.

Councilor Lown said the City can build the garage and the clear title should be conveyed to build the garage. He said he does not believe the City has changed their expectation on the building of the garage.

Councilor Perkins said that the Working Group feels this is the final step before moving forward. She said any material concerns we had would be removed.

Assistant Mayor Splaine said he is pleased that the details will be done and feels this is a great location.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he is pleased we are at this point and that the motion will focus on the land and its easements and covenants.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Cyr said he would be recusing himself because he owns property near the site.

**Councilor Lown moved that the City Council ratify its action of April 18, 2016 and reiterate the authority of the City Manager to negotiate and execute the Purchase & Sale Agreement, Post Closing Obligation Agreement and all related Agreements and documents with Deer Street Association necessary to bring about the acquisition of the municipal parking garage site on Deer Street subject only to a determination by the Council Working Group of Councilors Rebecca Perkins, Brad Lown and Eric Spear that documentation has been received by the City adequately supporting the conclusions and representations made by Kim Rogers to Mayor Jack Blalock and City Manager John P. Bohenko by letter dated August 5, 2016. Seconded by Councilor Spear and voted. Councilor Cyr recused from voting.**

2. Request to Establish Hearing to Take a Portion of Property at 150 Greenleaf Avenue by Eminent Domain

Attorney Bauer came forward to speak on this matter and City Manager Bohenko spoke to the motion required on this item.

Attorney Bauer spoke to the issues of the sewer line and that in 1967 a number of septic systems were failing. He said a sewer line was placed on the rear portion of the land and the line was to serve residents. He addressed the issues the current owner has with the line and that he would like it removed from his land because the City did not receive a recorded document for the line. Attorney Bauer spoke to the motion which is to view the site and consider taking the 4.6 acres.

City Manager Bohenko said the City Council has to meet at the site before the September 6<sup>th</sup> City Council meeting.

Councilor Lown said we are not deciding on the taking of the land currently.

Mayor Blalock said he would like to meet on September 6<sup>th</sup> and have a shuttle to the property.

Councilor Spear said the neighborhood served by the sewer line should be made aware of this matter. City Manager Bohenko stated it would be a public meeting and that there are requirements under the eminent domain process.

Mayor Blalock said we will notify the neighborhood before the September 6<sup>th</sup> meeting. He said we will view the land at 5:30 p.m. on September 6<sup>th</sup> and the City Manager will get details out to the City Council.

**Councilor Spear moved to authorize the City Manager to establish a meeting on September 6<sup>th</sup> at 5:30 p.m. to view the property to be taken and establish a public hearing for September 6, 2016 to determine the public necessity, use and benefit of taking a portion of property located at 150 Greenleaf Avenue. Seconded by Councilor Lown.**

Councilor Dwyer said there is a great deal to know on this matter and its history over the last 12 years. She said if we view this at 5:30 p.m. and have a public hearing that evening the public will know the details. She said it is a complicated issue.

City Manager Bohenko said the viewing of the site will not be very long and a presentation would be provided prior to the public hearing on September 6<sup>th</sup>.

Councilor Dwyer asked if the vote would be after a public hearing is held. City Attorney Sullivan said that night. Councilor Spear questioned whether that would be enough time to educate the public from now until September 6<sup>th</sup>.

City Manager Bohenko read the requirements of eminent domain. He said he would send the information he read from out to the City Council.



**On a roll call vote 8-1, motion passed.**

3. Report Back Re: Partnership Proposal for Chestnut Street Improvements

Assistant City Manager Moore described the proposal and its goals for The Music Hall. He spoke to the removal of a utility pole at Porter Street and Chestnut Street. He addressed the 50/50 partnership for streetscape improvements and stated there are no impacts to on-street parking. He spoke to the referral of March 21<sup>st</sup> by the City Council to Art-Speak and said there was overwhelming support for streetscape improvements but different views on the arch.

**Councilor Spear moved to refer this matter to the Legal Department for the development of a Partnership Agreement with The Music Hall. Seconded by Assistant Mayor Splaine.**

**Councilor Spear moved to amend the motion to exclude the arch from the partnership agreement. Seconded by Assistant Mayor Splaine.**

Councilor Spear said The Music Hall has done a good job on the project and a lot of work on the arch. He feels it is a matter of taste.

Assistant Mayor Splaine said he would oppose the motion to amend but every motion should be seconded to allow for discussion. He said the arch is part of the character of the project and this will be a wonderful project with or without the arch.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he has a problem with the arch on the sidewalk and feels that it creates an obstacle.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Cyr asked whose job it would be to change the arch way and who would own it. Assistant City Manager Moore said it would be part of the partnership agreement.

Councilor Denton feels the arch is out of place but when he looks at it he has a smile on his face.

Councilor Lown said he would oppose the motion to amend. He spoke to the fundraising by The Music Hall and said this is an effort to give something substantial to the City. He said they raised the funds and feels it is a package deal.

Councilor Dwyer said it is public art. She would like more of a discussion on the arch. She said the bump outs may not be large enough. She also stated she does not support the amendment.

Councilor Pearson said she does not support the amendment and feels it is a package deal. She said Art-Speak did not evaluate whether they liked the arch or not.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he would not support the motion due to the discussion held.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

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

**Main motion passed.**

4. License Request Completion for Work at 77 Hanover Street

**Councilor Lown moved to authorize the City Manager to negotiate and enter into a license with Bay Contracting Inc. to facilitate completion of construction activities at 77 Hanover Street. Seconded by Councilor Cyr and voted.**

**Councilor Spear moved to suspend the rules and continue the meeting beyond 10:30 p.m. Seconded by Councilor Cyr and voted.**

City Manager's Informational Items

3. *Report Back Re: North Façade*

Public Works Director Rice provided a brief presentation on the North Façade of City Hall and the existing condition and need of repair. He reported that Option A is a general looking façade, Option B is more progressive and modern looking, and Option C was not brought forward due to the life span of materials. He spoke of the choice for a whole color pallet with the construction and that Option A had the best energy savings and longest life span.

City Manager said this is not for action but to let you know we are bringing this to the Historic District Commission. City Manager Bohenko said the City Council will have the final decision on the matter.

Councilor Dwyer said you should not go to the Historic District Commission with three options and present B or C.

Councilor Pearson asked if there would be time for an on-line survey by the public to express their choice.

Councilor Cyr asked what we really want from the Historic District Commission and can we pick a path and move forward. City Manager Bohenko said we always go to the Historic District Commission for some advice from them. He said he would like to receive input from the Historic District Commission on this matter.

Mayor Blalock said we should ask the Boards and Commission for their feed back.

City Manager Bohenko said we will put the designs up on the website for residents to view.

5. *Water Restrictions*

Deputy Public Works Director Goetz said water restrictions will be put in place tomorrow on calendar odd days. He said we are in a severe drought and we are 13 inches behind on water and reported on the reservoir being down.

Councilor Spear asked if there is any update on Sagamore Creek. City Manager Bohenko said he will provide information back to the Council on that matter.

**B. COUNCILOR LOWN**

1. Parking & Traffic Safety Action Sheet and Minutes of the August 4, 2016 meeting

**Councilor Dwyer moved to approve and accept the action sheet and minutes of the August 4, 2016 Parking & Traffic Safety meeting. Seconded by Councilor Spear.**

Councilor Lown spoke to the three month pilot program in front of Breaking New Grounds for parking the mopeds and motorcycles.

Councilor Cyr said the 15 minute parking spot on the corner of Hanover Street and Bridge Street should be reevaluated. He said the neighborhood would not support this if they understood this issue. He said he opposed the 15 minutes spot.

Councilor Dwyer said we should not create any more 15 minutes spaces until we have more parking downtown.

**Motion passed. Councilor Cyr voted opposed.**

**C. COUNCILOR SPEAR**

1. Extension and Amendments to City Manager's Employment Agreement

Councilor Spear said the Committee reported back and the City Council endorsed the extension of City Manager's contract. He said this is a fair extension. He highlighted the base salary provided for an enhancement to his retirement and that we will be retaining him as a consultant at an hourly rate after he retires from the City.

**Councilor Spear moved to execute the amendments to the City Manager's Employment Agreement dated August 10, 2016, as outlined in the attached memorandum, and further, that all other conditions of the City Manager's Employment Agreement dated October 23, 2012, remain in full force and effect. Seconded by Councilor Lown.**

Councilor Denton said the pay increases are step increases and COLA increases.

Councilor Lown said this is about what we need to pay the City Manager to stay for the next few years. He said this is the fair market.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said one of the reasons he ran for City Council was to keep the City Manager for as long as we could. He said he is worth more than we pay him and with all the projects we have it will be helpful to keep the City Manager on as a consultant after he retires.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Dwyer said a main issue is that companies are trying to recruit him and keeping staff is important. She said that this is the biggest investment we can make.

Assistant Mayor Splaine said he does not disagree with anything spoken in the last few minutes. He said he put John P. Bohenko in the same manner as Cal Canney. He said there is a question on how much we should pay for a position in the City. We need a balance and many City Managers' that work hard and don't receive this kind of wage or bonuses. We should not provide the consultant part of the contract. The City Council elected in 2019 should be making that decision. He feels this contract and wages are beyond our limit.

**On a roll call vote 8-1, motion passed. Assistant Mayor Splaine voted opposed.**

**D. COUNCILOR DENTON**

1. Water Country

**Councilor Denton moved that we request the Parking and Traffic Safety Committee hold a meeting in the fall to discuss any impact the Water Country traffic numbers collected this summer have on the original traffic study, other Water Country related traffic concerns, and next steps if any. Seconded by Councilor Spear and voted.**

**XIV. MISCELLANEOUS/UNFINISHED BUSINESS**

Councilor Cyr said he would like Parking Traffic & Safety to look at 15 minute spaces and free up spaces after the businesses have closed.

**XV. ADJOURNMENT**

**At 11:20 p.m., Councilor Lown moved to adjourn. Seconded by Councilor Spear and voted.**

