

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, MARCH 6, 2017

PORTSMOUTH, NH
TIME: 7:00PM

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

City Manager Bohenko led in the Pledge of Allegiance to the Flag.

V. ACCEPTANCE OF MINUTES – FEBRUARY 6, 2017 AND FEBRUARY 21, 2017

Councilor Lown moved to accept and approve the minutes of the February 6, 2017 and February 21, 2017 City Council meetings. Seconded by Councilor Spear and voted.

VI. PUBLIC COMMENT SESSION

Roy Helsel inquired as to the line item in the budget entitled "Other Operating Costs." He also spoke opposed to the plastic bag ordinance.

Jim Lee spoke against the ban for plastic bags. He said this is an item in search of a problem.

Merle White, Anchor Taxi, Rye, NH spoke to the new insurance regulations under the Taxi Ordinance. He said this matter should have been brought back to the City Council because the rates are too high and will drive Taxi Companies out of the City.

Jim Boyle said it has been a month since the verdict came down and it is wrong to take this long to settle the financial aspects of the case. He requested that Mayor Blalock schedule a special City Council meeting and have the City Council express how they feel on the verdict and eminent domain.

Mary Lou McElwain spoke regarding proposed metered parking at the Parrott Avenue lot. She said any changes in the parking at Parrott Avenue will push the vehicles into the neighborhoods. She spoke to a Parking Utilization Report done by John Burke which indicated that the Vaughan Street lot is under-utilized and she feels that should become the City lot for employees to park. She requested that the motion on this matter be tabled until the review of John Burke's Report by the City Council.

Erik Anderson spoke on banning plastic bags. He said there is a great deal of information you can find on this matter. He stated there are more cons than benefits to banning plastic bags. He informed the City Council that he spoke with a supermarket personnel and there is an 80% use of plastic bags at the store.

Pat Bagley said residents and non-residents are perplexed with why there is a proposal to meter Parrott Avenue lot. She said that this is another bad idea and will push cars into the neighborhoods. Ms. Bagley spoke to the need of enforcing the 72 hour requirement at Parrott Avenue lot. She requested the Council table the motion.

Mark Brighton said Councilor Denton wants to change the campaign financing requirement and asked is it \$99.00 per year or per election cycle. He asked how would the ordinance be enforced and said he opposes the proposed ordinance and feels it is unenforceable.

Jeff Semprini said the lack of confidence is disrespectful to residents. He said he opposes the plastic bag ordinance and feels it would hurt the elderly who use these plastic bags for many purposes. He stated his support of the Recycling Program.

Bob Wofchuck, Brentwood, NH, spoke in support of the plastic bag ordinance. He said plastic bags have an effect on our environment.

Nathalie Morison spoke in support of the plastic bag ordinance and it is time for Portsmouth to join other cities across the Country. She spoke to plastic bags harmful effects on wildlife.

Kirsten Howard spoke in support of the plastic bag ordinance and feels it is time for the City to move in this direction. She spoke to the effect plastic bags have on water quality.

Mayor Blalock and the City Council allowed two additional speakers that did not sign up to speak at the Public Comment Session.

Carol Hollis spoke in favor of the plastic bag ordinance and said she picked a plastic bag out of the mill pond today. She said we need to conserve and educate people who will change their behavior.

David Kaskins said he is currently working on a development off of Moffat Street by combining two tax lots into a lot and will continue the approval process with Planning Board. He explained that he would create a loop road and would provide safety and increase the egress to the area. He said it is important what the Council acts on to be released. He said he does not support the release of the intersection. He said if the intersection is released it would recreate a problem for the development.

VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation from Wentworth Senior Living, Sponsorship of Senior Luncheon Program - \$15,000.00

Councilor Lown moved to accept and approve the donation to the Police Department, as presented. Seconded by Councilor Perkins and voted.

- B. Acceptance of Donation of a disbursement check in the amount of \$105,687.00 from the Estate of Geraldine W. Webber

Councilor Lown moved to accept and approve the donation to the Police Department, as presented. Seconded by Councilor Cyr and voted.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of proposed Ordinance amending Chapter 3, Article II, Section 3208 – Regulation of Single Use Carryout Plastic Bags

City Manager Bohenko said there is no requirement or rule to bring this forward for first reading.

Councilor Spear said the reason to do the pre-first reading is to get thoughts out. He said he would be making a motion to bring back first reading.

City Manager Bohenko said you could make a request to table the ordinance and bring it back for first reading at the March 20, 2017 City Council meeting.

Councilor Lown moved to table first reading until the March 20, 2017 City Council meeting. Seconded by Assistant Mayor Splaine.

Councilor Lown said that the City has the power to do this and there is a bill in the legislature that would create enabling legislation regarding plastic bags. He further stated that our ordinance would not go into effect for one year.

Councilor Denton said he looks forward to having this ordinance brought forward. He supports the tabling but is pleased that the ordinance will be brought forward and it has taken over a year to bring it forward.

Assistant Mayor Splaine said he supports tabling to learn more about this matter. He spoke to the Town of York, Maine adopting a similar ordinance a year and half ago and it has created no problems for that community.

Councilor Perkins said she is inclined to see us move forward on the ordinance. She asked if the ordinance needs to change. City Attorney Sullivan explained that he reviewed the entire ordinance and made various changes and it is ready to move forward. She said she supports the tabling motion and would like to hear from the businesses that would be impacted by this.

Councilor Spear asked about the language under definition of store items 2 and 4. He can find no difference between items 2 and 4. City Attorney Sullivan said Surf Rider wanted to cover all stores. Councilor Spear requested that items 2 and 4 be changed under definitions.

Councilor Dwyer said 5 of 7 pages is definition and to make this workable it needs to state what we are incentivizing here. She said people have a problem with the single use language in the ordinance.

Motion passed.

- B. Third and final reading of proposed Ordinance amending Chapter 7, Article I, Section 7.115 – Sign Permit Required for Private Parking Lot

Councilor Lown moved to pass third and final reading of the proposed ordinance, as presented. Seconded by Councilor Dwyer.

City Manager Bohenko said we will be coming back with more requirements and have more control on what is placed out there.

Motion passed.

IX. CONSENT AGENDA

- A. Letter from Mike St. Laurent, LOCO Sports, LLC, requesting permission to hold a half marathon road race on Sunday, April 23, 2017 at 8:00 a.m. ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Molly Bolster and Matt Glenn, Gundalow Company, requesting permission to hold the 7th annual Round Island Regatta on Saturday, August 19, 2017 ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Ken La Valley, American Foundation of Suicide Prevention, requesting permission to hold the Out of the Darkness Community Walk on Saturday, September 16, 2017 at 10:00 a.m. ***(Anticipated action – move to refer to the City Manager with power)***
- D. Request for License to Install Projecting Sign:

Elaine Miller owner of Ceres Gallery for property located at 23 Ceres Street ***(Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request)***

Planning Director's Stipulations:

- ***The license shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of projecting sign, for any reason, shall be done at no cost to the City; and***
- ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***

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

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

(There are no Written Communications and Petitions on for consideration this evening)

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Adoption of Proposed Capital Improvement Plan (CIP) FY2018 – 2023

City Manager Bohenko said this is the CIP for FY18 and asked the City Council if they wanted to add or subtract from the general fund it would be better to do at budget time.

Councilor Lown asked whether the Webber funds coming to the Police and Fire Departments affect the CIP. City Manager Bohenko said both the Fire Chief and Police Chief will be making a decision on what equipment they want to purchase. He said it is to add to something that may not be here. City Attorney Sullivan said the funds must be spent for safety purposes. Councilor Lown asked if all equipment owned by the Fire and Police Departments is safety equipment. City Manager Bohenko said yes.

Councilor Dwyer said Item 60 – Prescott Park she would like to mark for the out years of 2019, 2021, 2022 to add \$3,000,000.00. City Manager Bohenko said he would work with the Prescott Park Advisory Committee and suggested to add this request to the narrative for Prescott Park.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he echoes Councilor Dwyer's thoughts regarding Prescott Park.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

City Manager Bohenko said he will reflect that in the Prescott Park narrative.

Councilor Spear move to adopt the Capital Improvement Plan (CIP) FY 2018-2023. Seconded by Assistant Mayor Splaine.

Councilor Denton moved to amend Enterprise Funds – Sewer Item 162 – Regional Digester Facility at Pease Waste Water Treatment Facility by moving up the funding for FY'19 of \$50,000.00 to FY'19, FY'21 of \$1,500,000.00 to FY'20 and FY'23 of \$16,500,000.00 to FY'22. Seconded by Assistant Mayor Splaine and voted.

Councilor Spear inquired about Item 53 – Police Department New Facility and if that should remain in the budget. City Manager said we are going to look at all our projects next year and evaluate each one which will require us to start earlier on the CIP next year.

Councilor Dwyer asked about Item 83 – Citywide Storm Drainage Improvements. City Manager Bohenko said that the item is for a new permit. He said we are working on methods to use the funding sources for revenue. Councilor Dwyer asked if it would be Enterprise Funds. City Manager Bohenko responded Special Revenue Funds.

Main motion passed, as amended.

Assistant Mayor Splaine moved to suspend the rules in order to take up Item XI. A.5. – Sewer Easement for relocated Brick Box Sewer. Seconded by Councilor Lown and voted.

5. Sewer Easement for relocated Brick Box Sewer

City Manager Bohenko said that we would get rid of a 90 degree angle in the pipe which makes more sense to have a straight pipe.

Councilor Lown moved to refer this issue to the Planning Board for a report back to the City Council on this proposed land transaction. Seconded by Assistant Mayor Splaine.

Councilor Lown thanked Mr. Happny for coming forward and offering to do this

Motion passed.

2. Report Back from Planning Board regarding Involuntarily Merged Lots at 630 Middle Road and Sylvester Street

Councilor Lown moved to accept the Planning Board's recommendation, as presented. Seconded by Councilor Dwyer and voted.

Planning Board's Recommendation:

That the parcel at 630 Middle Road and Sylvester Street be restored to its premerger status as three lots. The effect of this action would be to separate lots 203 and 204 as shown on the 1903 plan of Prospect Park as two individual lots, leaving the remaining five original lots as a single voluntarily merged lot

3. Report back from Planning Board Re: Request for Release of Paper Streets Pursuant to RSA 231:51 and 231:52 – 26 Moffat Street (Tax Map 243, Lot 69) and Swett Avenue (Tax Map 243, Lot 23)

Planning Director Taintor reported in his memorandum there are 3 attachments on the 1902 map he drew around the area and it was just meant to be a general reference. He said on the attachment with hash marks he does not include the intersection and he is not proposing to close the intersection.

Councilor Lown moved to accept the Planning Board's recommendation, as presented. Seconded by Councilor Perkins and voted.

Planning Board's Recommendation:

That the City Council release all right, title and interest, if any, in the paper streets abutting the parcels shown as Assessor's Map 243 Lot 69 and 23.

4. Request for First Reading a Proposed Ordinance amending Chapter 7, Article VII, Section 7.703 and 7.7.04 to clarify the Prohibition of Truck Traffic on Banfield Road

City Manager Bohenko informed the City Council that this is going back to the ordinance we had in the 1990's.

Councilor Lown said Parking and Transportation Engineer Eby did a great job and stated there were 4 exceptions to the ban as outlined in the Parking & Traffic Safety Committee minutes.

Councilor Perkins asked about references to Peverly Hill Road being removed and the idea of a truck through road.

Public Works Director Rice said it is not to address or change Peverly Hill Road currently it is to limit the truck traffic on Banfield Road.

Assistant Mayor Splaine said in 1977 there were concerns with the narrowness of the road and the industrial parks effect the cut through of Banfield Road to reduce the impact.

Assistant Mayor Splaine moved to authorize the City Manager to bring back an Ordinance for first reading at the March 20, 2017 City Council meeting to address the issues outlined in his memorandum. Seconded by Councilor Lown and voted.

6. Pilot Program for Late Night Food Vending

City Manager Bohenko said we would need Parking & Traffic Safety Committee to adopt this during its omnibus process and set up a pilot program and have a time certain for coming back. He said the omnibus would be done for 2018. He said location of the trucks are to be near bathroom facilities per the Health Officer.

Councilor Perkins moved to refer this matter to the Parking and Traffic Safety Committee for consideration of a proposed pilot program to allow late night food truck vending in a select area around the High Hanover garage. Seconded by Assistant Mayor Splaine.

Councilor Perkins said she is excited to see how this moves forward. She said that we could consider the other side of the garage on High Street for the trucks to be located.

Councilor Dwyer said she is concerned for downtown residents. She said it can become very loud.

Motion passed.

B. MAYOR BLALOCK

1. Appointments to be Considered:
 - Reappointment of Dana Levenson to the Trustee of the Trust Funds
 - Appointment of Jeffery Kisiel as regular member to the Planning Board
 - Appointment of Corey Clark as an Alternate member of the Planning Board
 - Appointment of Marie Cowgill to the Citizens Advisory Committee

The City Council considered the appointments which will be voted on at the next City Council meeting.

C. ASSISTANT MAYOR SPLAINE

1. Consideration of draft of a City of Portsmouth Welcoming and Diversity Resolution

Assistant Mayor Splaine said he would bring the Resolution back for a vote at the April 3, 2017 City Council meeting.

D. COUNCILOR DWYER

1. Update: Reviewing and weighing evidence, seeking and interpreting expert consultation, Council preparation

Councilor Dwyer said we might as a City Council have a more systematic approach to decisions when weighing certain issues how we take into view evidence. She said that this is a practice followed in England. She said she will bring something for the City Council to consider at a future meeting.

Assistant Mayor Splaine said the idea has some good value. He said he welcomes and thanked any resident watch dogs that come forward and bring to the City Council's attention any issues that we will need to be addressed by the City. He said this should be a committee separate from the City and we need to welcome people that are smart and can perceive matters of concern.

Councilor Perkins said she supports Councilor Dwyer on this matter.

E. COUNCILOR LOWN

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the February 2, 2017 meeting

Councilor Lown moved to accept and approve the action sheet and minutes of the February 2, 2017 Parking & Traffic Safety Committee meeting. Seconded by Councilor Dwyer and voted.

F. COUNCILOR SPEAR

1. Downtown Employee Parking for Parrott Avenue Lot

Councilor Spear said there is a need for parking for downtown employees and having that parking be affordable. He said it is time that we address this problem and provide a minimum charge. He said there would be a parking kiosk for people to use.

Councilor Spear move to bring back for first reading an expansion of affordable downtown worker parking through metering the Parrott Avenue Lot at 50 cents per hour for a maximum of 11 hours. Seconded by Councilor Lown.

Councilor Lown said that this is an interesting concept.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said the money is not important and would like to see the fee at \$.25. He said there is no parking at the lot available after 8:00 a.m. He informed the Council that his employees try to use the lot but they are not able to because they get here after 8:00 a.m. Mayor Blalock stated it would be enforced and cause turn over for people to utilize the parking spaces.

Assistant Mayor Splaine returned the gavel to the Mayor Blalock.

Councilor Dwyer said until we get Deer Street Parking Garage on line we are not ready to make any changes to parking. She would like to see us permitting spaces for downtown employees. She said she wants to make sure it is downtown workers getting the special rate. She stated she would like to look at reducing the 72 hour ability to park at the lot.

Assistant Mayor Splaine said what Councilor Dwyer spoke to can be looked at and find better ways of ensuring this. He said we need to take a look at the Hanover lot and create employee parking there. He said he would like a Work Session on this matter.

Councilor Pearson said she would like to look at this holistically. She said she would like Parrott Avenue lot included in this as we need to know what is happening with the other pay lots as previously requested by Councilor Dwyer.

Councilor Cyr said he would like to know what the ratio of who is parking there currently, those working in downtown or those that live in the downtown. He said we could create a holistic master plan.

Councilor Spear withdrew his motion and Councilor Lown his second to the motion.

Councilor Spear said we could have the Parking and Traffic Safety Committee provide a report back on this matter.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he supports the concept and making sure employee parking is being used. He said it is a select few that get to use the lot because there is no turn over currently.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Dwyer said it is early to make changes but not too early to start talking about changes for when Deer Street Parking Garage comes on line. She would like a Work Session on what are we striving towards and this would be a part of it.

Councilor Spear moved to refer the parking concepts for employees and residents to Parking & Traffic Safety Committee for report back with a work session in the future. Seconded by Councilor Lown.

Councilor Dwyer suggested holding a Joint Work Session between the City Council and the Parking & Traffic Safety Committee on these matters.

City Manager Bohenko said we need to work with the Parking & Traffic Safety to determine what we are going to look at. He said he would like to get a list of things to work on.

Councilor Pearson said between staff and Parking & Traffic Safety Committee and the City Council to have a representative voice of someone that lives and works downtown to express their ideas during the discussions.

Councilor Denton thanked Councilor Spear for his approach.

Councilor Cyr said he would like to add the shuttle as part of the discussion and decision making.

Motion passed.

G. COUNCILOR DENTON

1. Section 1.902: Election Candidate Financial Disclosure

Councilor Denton move to direct the City Attorney to draft an amendment to Section 1.902 – ELECTION CANDIDATE FINANCIAL DISCLOSURE to require entities that raise and spend money on candidates to abide by the same requirements as candidates themselves. Seconded by Assistant Mayor Splaine.

Councilor Denton said campaign financial disclosure is important. He said that this is so residents will know what is going on and will not create a distraction.

Councilor Spear asked what an entity is. He thinks disclosure is good but how do you enforce something like this. He feels this will cause more problems than it would solve. He has some people spending a great deal of money and lose an election and some that spend very little and win an election. He does not want a well-meaning group to get caught in not reporting.

Councilor Dwyer said we should take about it more. She said it is spending for an election not a candidate spending by an interest group of \$100.00 or more.

Assistant Mayor Splaine said it is a question of disclosure and the City Attorney could go to the state laws on this matter. He said we should not be fearful of passing something like this. He said some candidates hire people or a campaign manager and people need to know who is spending what on a campaign.

Councilor Lown said he is in favor of having the City Attorney come back with an ordinance. He said that this would be a basic disclosure.

Councilor Perkins said there are costs for transparency to create the report. She said we need to make sure that we know what we are looking at. She does not want anyone to feel discouraged from running for office.

Councilor Dwyer said we need to craft an ordinance that makes sense.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said it is to get groups that spend money on a particular candidate to report the funds expended. He does not see a need for this ordinance and said he does not want to discourage anyone from running for office. He said there is not a problem in the City.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Spear said he does not know what it means “entity” spending money on a candidate.

Councilor Denton move to amend the motion by adding the words after on to “group lists of”. Seconded by Councilor Lown and voted.

Councilor Denton said if a group spending \$100.00 or more they would need to file a report.

Councilor Pearson said on Facebook you can create groups at no costs so why would you not as a candidate do that.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he does not support this because it is really not about the money it is about the names providing contributions. He feels that this could discourage people from running for office. He further stated we are trying to solve a problem we don't have right now.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Denton said that this would show the public that an issue does not exist.

Councilor Cyr said he could go either way and would support the public coming forward and speaking on this ordinance during the public hearing process.

On a roll call 7-2, voted to direct the City Attorney to draft an amendment to Section 1.902 – ELECTION CANDIDATE FINANCIAL DISCLOSURE to require entities that raise and spend money on group lists of candidates to abide by the same requirements as candidates themselves. Assistant Mayor Splaine, Councilors Dwyer, Lown, Pearson, Spear, Cyr and Denton voted in favor. Councilor Perkins and Mayor Blalock voted opposed.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Spear said the Clean Water Act Item 4 the declaration and goals of the clean water act states it is the national policy that federal financial assistance be provided to construct publicly owned waste treatment works and Item F states it is the national policy that to the maximum extent possible the procedures utilized to implement this act shall encourage the drastic minimization in paperwork. He said we are not receiving these items as stated in the clean water act.

Councilor Pearson announced that a Public Input Session will be held on Tuesday, March 7, 2017 at 6:30 p.m. in the Levenson Room of the Library regarding Public Art for the new Parking Garage. She also stated she would provide a report for the Council regarding the session at the March 20, 2017 City Council meeting.

Assistant Mayor Splaine requested that City Attorney Sullivan provide the Council with a copy of a memorandum he prepared for former Councilor Thorsen regarding public media.

XIII. ADJOURNMENT

At 9:35 p.m., Councilor Lown moved to adjourn. Seconded by Councilor Spear and voted.



KELLI L. BARNABY, MMC, CMC, CNHMC
CITY CLERK