

## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, MARCH 18, 2019

PORTSMOUTH, NH  
TIME: 7:00 PM

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At 6:30 p.m. a Non Public Session was held in accordance with RSA 91-A:3 II (a) regarding Personnel Matters.

### **CALL TO ORDER**

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

### **I. ROLL CALL**

PRESENT: Mayor Blalock, Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton, Perkins, Raynolds and Becksted

### **II. INVOCATION**

Mayor Blalock asked everyone to join in a moment of silence.

### **III. PLEDGE OF ALLEGIANCE**

Mayor Blalock led the Pledge of Allegiance.

### **IV. ACCEPTANCE OF MINUTES – MARCH 4, 2019**

**Councilor Perkins moved to accept and place on file the minutes of March 4, 2019 City Council meeting. Seconded by Assistant Mayor Lazenby and voted.**

### **V. PUBLIC COMMENT SESSION**

Mayor Blalock opened the Public Comment Session.

Paige Trace – spoke regarding the Pease Wastewater Treatment Facility and the nitrogen levels stating that currently there are no limits in place at Pease. She stated she is concerned with the expansion at Lonza and the new Brewery which both produce a lot of nitrogen as well as the fact that we share an outflow pipe with another community. She is concerned with how much it will cost Portsmouth residents to get to the level once it is imposed.

Lee Roberts – spoke in favor of the Global Effort to Prevent Nuclear War Resolution stating that this along with climate change are the 2 biggest threats to the planet. She urged the Council to support the resolution and asked the members of the audience to stand if they agreed, which they did.

Diane Stradling – also spoke in favor of Council support for the Resolution regarding preventing Nuclear War explaining its origins and endorsement by many groups.

Esther Kennedy – spoke regarding her concerns with the Wastewater Treatment Facility stating that she would have liked the presentation to have been earlier on the agenda to get some clarification for people who are also concerned.

Sandra Yarne – thanked Mayor Blalock for bringing the Resolution to Prevent Nuclear War forward stating it was crafted to bring the facts to people. She stated that the doomsday clock is at 2 minutes to midnight which is even closer than during wartime and affects the whole planet. She further explained the consequences of nuclear fallout including a new Ice Age. She concluded stating that we need to make the US Government live up to its commitment from the 2017 United Nations Treaty.

Christina Dubin – spoke in favor of the proposal of an ordinance regarding single-use bags stating that the City shouldn't wait for the State to pass legislation and that there is already enabling language in the 149 regulations.

**Councilor Denton moved to suspend the rules to move up on the Agenda XI-B, Mayor Blalock Item 3. Seconded by Assistant Mayor Lazenby and voted.**

### 3. Global Effort to Prevent Nuclear War Resolution

Mayor Blalock thanked Sandra Yarne for bringing this to their attention and stated they worked together to reflect the citizens of Portsmouth. He then read the resolution.

**Councilor Pearson moved to adopt the resolution calling on the US Government to lead a global effort to prevent nuclear war and that copy of the resolution be sent to each member of New Hampshire's Congressional and Legislative Delegations. Seconded by Assistant Mayor Lazenby and voted unanimously.**

**Councilor Roberts moved to suspend the rules to move up Item XI-A, City Manager Information Item #2. Seconded by Councilor Denton and voted.**

### 2. Presentation Re: Wastewater Permit Update

City Engineer, Terry Desmarais, and Deputy City Attorney, Suzanne Woodland, gave a presentation regarding a change in the permitting structure being introduced by the Environmental Protection Agency and the New Hampshire Department of Environmental Services relative to the Great Bay Estuary. They also provided an update to the wastewater permitting and expanded treatment needs of the Pease Wastewater Treatment Facility, as well as a brief update on the Peirce Island Wastewater Treatment Facility.

Councilor Denton asked if they are seeking any Council action this evening.

City Manager Bohenko stated it may be helpful to have a vote of support of the proposed Council actions as outlined on slide 17 of the presentation.

Councilor Becksted asked if we will be increasing the volume at Pease due to Lonza expansion and the new brewery and if they will be measuring the nitrogen levels.

City Manager Bohenko stated that this is all part of the ongoing regulatory discussions and negotiations with the EPA.

Discussion ensued regarding the Total Nitrogen General Permit structure and that the City of Portsmouth is already equipped to deal with the requirement and other communities are not and may not be able to do so.

**Councilor Denton moved to support the City's further engagement in the Total Nitrogen General Permit Concept for the Great Bay Estuary forgoing at this time legal action regarding nitrogen and reducing level of engagement with Dover and Rochester under the Great Bay Municipal Coalition, seconded by Councilor Perkins.**

Councilor Becksted asked if there are any other communities that have more than one Wastewater Treatment facility. Mr. Desmarais stated no.

Councilor Becksted stated he doesn't want to lose leverage in negotiations with Lonza.

City Manager Bohenko stated we need to work through this process and then work with Lonza and clarified that they have already paid for some things.

Mr. Desmarais stated that Lonza has paid for four different studies that needed to be completed, 3 of which were highly scientific.

Councilor Reynolds thank the staff and stated he is glad that the EPA is taking an innovative approach and to bring all of the communities together to do their parts.

Councilor Roberts asked what is the downside.

Mr. Desmarais stated that if the EPA doesn't wait the 23 years to put this into effect then it will impact Portsmouth.

Deputy City Attorney Woodland stated that if they put all of the money into nitrogen levels and then find out that this may not have been the right issue, that would be a downside. She stated she wants to see a scientific panel as part of this process and an adaptive management plan and will be looking for that in the draft permit.

Mayor Blalock stated there is still a long way to go.

**Motion passed.**

## **VI. PUBLIC HEARING & VOTES ON ORDINANCES AND/OR RESOLUTIONS**

*(There are no Public Hearings, Ordinances and/or Resolutions this evening)*

## **VII. APPROVAL OF GRANTS/DONATIONS**

- A. Acceptance of Donation to the Coalition Fund
  - Town of Newbury - \$1,000.00

**Assistant Mayor Lazenby moved to approve and accept the donations, as listed to be placed in the Coalition Fund. Seconded by Councilor Perkins and voted.**

## VIII. CONSENT AGENDA

**Councilor Reynolds moved to adopt the Consent Agenda as presented. Seconded by Councilor Perkins and voted.**

- A. Letter from Ken La Valley, American Foundation for Suicide Prevention requesting permission to hold the Out of the Darkness Walk on Saturday, September 14, 2019 from 10:00 a.m. to Noon ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Samantha Boland, National Multiple Sclerosis Society requesting permission to hold the 2019 Bike MS: New Hampshire Seacoast Escape on Saturday, August 24, 2019 ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Abigail Wiggin, Portsmouth Halloween Parade Committee requesting permission to hold the 25<sup>th</sup> annual Portsmouth Halloween Parade on Thursday, October 31, 2019 ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from Richard Wagner, AIDS Response Seacoast requesting permission to hold the 22nd Annual Seacoast AIDS Walk and Dog Walk on Sunday, May 5, 2019 from 10:00 a.m. to 5:00 p.m. ***(Anticipated action – move to refer to the City Manager with power)***

## IX. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence

**Assistant Mayor Lazenby moved to accept the e-mail correspondence and place on file. Seconded by Councilor Dwyer and voted.**

- B. Letter from Joshua Sheets in support of the current design and proposed plan for development of the McIntyre building site submitted by Redgate Kane Group

**Assistant Mayor Lazenby moved to accept and place on file. Seconded by Councilor Perkins and voted.**

- C. Letter from Judd Gregg regarding Redevelopment of the McIntyre Building Area

**Assistant Mayor Lazenby moved to accept and place on file. Seconded by Councilor Roberts and voted.**

## XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

### A. CITY MANAGER

1. 25 Maplewood Avenue License Extension

**Councilor Roberts moved that the City Manager be authorized to execute and accept the temporary construction license regarding 25 Maplewood Avenue as submitted. Seconded by Councilor Dwyer and voted.**

2. 46-64 Maplewood Avenue License Extension

**Councilor Raynolds moved that the City Manager be authorized to execute and accept the temporary construction license regarding 46-64 Maplewood Avenue as submitted, seconded by Councilor Roberts.**

Councilor Raynolds stated the Fee Committee made changes to the fees to make the process more transparent and to give an initiative to limit the duration. He asked if this was expected revenue in the current budget or will it be a “windfall”.

City Manager Bohenko explained that because of the timing of the change, it will be unanticipated revenue and will go into the general fund.

Councilor Becksted stated that this is only 1/3 of what we were normally charging and these are investors and developers from outside of the city.

#### **Motion passed.**

3. Banfield Road/Conservation Drainage Improvements

Deputy City Attorney Woodland explained this is City-owned property located on the south side of Banfield Road which is currently a conservation property as defined and regulated by City Ordinance Chapter 8, Article V. She stated that the Conservation Commission has reviewed proposed drainage improvements to the conservation parcel and as the impacts are along the edge of the roadway only, the Conservation Commission has recommended that the City Council approve the drainage improvements.

City Manager Bohenko stated this will require a 2/3 vote for passage.

**Assistant Mayor Lazenby moved to authorize the construction of drainage improvements to conservation property identified as parcel 0294-0009-0000 to facilitate and implement the Banfield Road Improvement Project. Seconded by Councilor Roberts and passed unanimously.**

*Mayor Blalock called a brief recess at 8:30 p.m. Meeting reconvened at 8:40 p.m.*

**City Manager's Informational Items:**

1. Presentation Re: Traffic Model

Traffic Engineer Eby gave a power point presentation regarding the Downtown Portsmouth Traffic Microsimulation Model showing a 2-way traffic flow and potential impacts and costs which would be significant.

Discussion ensued regarding the safety of pedestrians of the current one-way traffic flow versus a 2-way traffic flow with both having various concerns.

Mayor Blalock asked if this model takes into account the double-parking of delivery trucks. Mr. Eby stated that this model is based on 5:00-6:00 p.m. and deliveries are not as common during this time-frame.

Councilor Becksted asked what is the proposed goal of this and wonders how much parking spaces and revenue would be lost. He stated the roads are one-way for a reason.

Councilor Roberts explained that the Fire Department wanted 2-way traffic because of an incident on Bow Street where they weren't able to get down the street because they were blocked by traffic when the bridge was up.

Assistant Mayor Lazenby asked if this information is kept up to date and are there limits as to who has access to the information as he is concerned with potential terrorism.

Mr. Eby explained that we do not own the model and RSG keeps the information updated but also stated that this is information gathered from public data already available.

2. Presentation Re: Wastewater Permit Update (action previously taken)

3. Update on Foundry Garage

Public Works Director Rice provided an update regarding Transient Collections at the Foundry Garage from November 2018 – February 2019.

City Manager Bohenko stated that there are 2 major projects that will have an impact on the number of monthly parking passes once they are finished as well as the upcoming summer tourist season.

4. Report Back Re: Veterans, Disabled and Elderly Exemptions

5. Taft Road North Drainage Evaluation

**B. MAYOR BLALOCK**

1. Appointments to be Considered:

- Reappointment of Amy Schwartz to the Portsmouth Housing Authority
- Reappointment of Todd Henley to the Recreation Board

The reappointments of Amy Schwartz to the Portsmouth Housing Authority and Todd Henley to the Recreation Board were considered and will be voted at the April 1, 2019 City Council meeting.

2. Work Session Re: Parking Principles Review & Discussion Reminder

Mayor Blalock explained that the Work Session being held March 25, 2019 at 6:30 p.m. at the Portsmouth Public Library, would be a discussion between the City Council and various Boards and Commissions regarding parking principles. He further stated that the meeting is open to the public but there will not be an opportunity for public input at this meeting. He concluded that no votes or decisions will be made and the public will have an opportunity to provide input if any proposals are brought forward.

Councilor Dwyer stated that the Parking and Planning staff have worked on detailed sheets to aid in a structured discussion based on what has happened over the last 15 years.

3. Global Effort to Prevent Nuclear War Resolution (action previously taken)

**C. COUNCILOR ROBERTS**

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the March 7, 2019 meeting

Councilor Roberts stated that with the acceptance of the March 7, 2019 Parking and Traffic Safety Committee minutes would be the approval of the Neighborhood Parking Program as amended previously by the City Council.

**Councilor Roberts moved to approve and accept the action sheet and minutes of the March 7, 2019 Parking and Traffic Safety Committee meeting, seconded by Councilor Becksted.**

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock stated that he has been opposed to this parking program but will vote in favor this evening in the spirit of cooperation.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

**Motion passed.**

**D. COUNCILOR DENTON**

1. Motion to refer the Distribution of Single-Use Disposables Ordinance to the City Attorney to report back for First Reading

**Councilor Denton moved to refer the Distribution of Single-Use Disposables Ordinance to the City Attorney to report back for First Reading, seconded by Councilor Raynolds.**

City Manager Bohenko suggested waiting on this as there is pending legislation.

Councilor Dwyer agreed and also feels that we should convene those who will be affected such as store and restaurant owners so it does not become divisive. She feels the implementers should help shape the idea and create a path of implementation.

Councilor Denton stated this is procedural to get the ball rolling and then amendments can be brought forward. He stated he first brought this to the Council 5 years ago and feels that the authority exists in State RSA Chapter 149. He stated that 4 years ago his favorite opposition was a statement from a previous Councilor that we should not get people to change their behavior, but he feels that we do need to change our behavior. He continued that he attended the recent "student strike" where the youth are understanding that this is the last generation that can make the necessary changes. He explained the difference between his last proposal and the current proposal (see draft ordinance). He stated that he drafted the ordinance himself and did utilize language from State of Maine because they already have this legislation in place for some issues.

Mayor Blalock asked what the purpose is of the record keeping mandate.

Councilor Denton stated it is meant to give an overall view to track if amounts go down.

Councilor Raynolds commended Councilor Denton for bringing this forward and then showed the reusable City of Portsmouth bag that was distributed at various locations which was made out of recyclable bottles stating that more should be ordered.

Councilor Pearson stated she supports this and is glad it is more comprehensive. She stated this will send a message to Concord and show that they need to make a decision.

Councilor Dwyer is concerned with passing something before the State has decided on a bill as the legislation has to be reviewed for legal interpretation and they don't feel that we do have the right to do this under Chapter 149. She stated that some of our own legislators are sponsoring this so we should support them in their efforts. Finally, she reiterated her concern of involving the implementers.

Councilor Denton stated he wants to include the businesses as well.

Councilor Becksted agrees with Councilor Dwyer and stated that we are not a "Home Rule" State. He stated there are restaurants and businesses that are already taking these types of actions on their own and feels that this should be a choice, not a mandate as this is the Live Free or Die State.

Councilor Denton stated he agrees that there are numerous businesses already taking steps and this will level the playing field.

Discussion ensued regarding the correct procedure for moving this forward with City Manager Bohenko explaining that the City Attorney will do a report back before a First Reading comes forward.

**Motion passed on an 8-1 roll call vote, Councilor Becksted voted opposed.**



## **XII. MISCELLANEOUS/UNFINISHED BUSINESS**

Councilor Pearson announced the upcoming Public Art opening at the Foundry Garage on March 24<sup>th</sup> followed by a reception at Liars Bench Brewery.

Mayor Blalock announced the Splash Reception will also be held on March 24<sup>th</sup> at the Library.

Councilor Pearson then announced that the City of Portsmouth is a finalist in the “Strong Towns” competition against Reading, California and urged people to vote on-line as it will be posted on the city website.

Councilor Roberts stated that the founder of Strong Towns, Chuck Marone, will be speaking at the Library on April 3<sup>rd</sup> which is being sponsored by PS21. He stated he is one of the top urbanists.

Councilor Becksted congratulated the Girls Varsity Basketball Team on a great season and reaching the Division finals.

## **XIII. ADJOURNMENT**

**Assistant Mayor Lazenby moved to adjourn at 9:42 p.m., seconded and passed unanimously.**

Valerie A. French, CNHMC  
Deputy City Clerk