

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, AUGUST 20, 2001

PORTSMOUTH, NH  
TIME: 7:00PM

At 6:15 p.m., an Anticipated "Non-Meeting" with counsel was held regarding litigation.

### **I. CALL TO ORDER**

Mayor Sirrell called the meeting to order at 7:05 p.m.

### **II. ROLL CALL**

Present: Mayor Sirrell, Councilors Hanson, Grasso, Wagner, Hynes, Marconi, Whitehouse and Pantelakos

Absent: Assistant Mayor Clews

### **III. INVOCATION**

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

### **IV. PLEDGE OF ALLEGIANCE**

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

### **PRESENTATION**

#### 1. Peter Happny Local Artisan/Blacksmith

Mayor Sirrell presented Peter a plaque with a key to the City acknowledging his work as an Artisan and Blacksmith in the City of Portsmouth.

Peter thanked Mayor Sirrell and the City Council for this recognition of his work and spoke on the importance of art in the City.

### **PROCLAMATION**

#### 1. Tanya & Bud Jackson – The Urban Forestry Center

Mayor Sirrell presented a Proclamation to Tanya and Bud Jackson in honor of their retirement with sincere thanks and admiration for a very special legacy they left us in the peaceful beauty of the Urban Forestry Center.

Tanya and Bud thanked Mayor Sirrell and the City Council for the proclamation and wonderful recognition.

## **MAYOR'S AWARD**

1. Alison Connor, Student Ambassador in a program called People to People International

Mayor Sirrell presented Alison with the Mayor's Award for her work with the People to People International program.

Alison thanked Mayor Sirrell and the City Council for this award and spoke briefly on the program and of her experiences.

## **V. ACCEPTANCE OF MINUTES – AUGUST 6, 2001**

Councilor Hanson moved to accept the City Council minutes of the August 6, 2001 meeting. Seconded by Councilor Pantelakos and voted.

## **VI. PUBLIC COMMENT SESSION**

There were no speakers for the Public Comment Session.

## **VII. PUBLIC HEARINGS**

- A. PROPOSED CHARTER AMENDMENT RELATIVE TO THE PROCEDURE TO FIX MUNICIPAL SALARIES

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

City Manager Bohenko advised the City Council that this amendment would allow the City Council to approve a Collective Bargaining Agreement and salary resolution on the same evening, thus eliminating the need for three readings, which, as indicated, are not necessary because of the legal and binding nature of the approval of the Collective Bargaining Agreement.

Councilor Hanson said that this amendment is a housekeeping item.

Ed Lawrence, Portsmouth resident, spoke opposed to the proposed amendment based on the elimination of the three readings.

After three calls and no further speakers, Mayor Sirrell declared the public hearing closed.

- B. PROPOSED CHARTER AMENDMENT RELATIVE TO GENDER NEUTRALITY

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

Peter Bresciano, Portsmouth resident, spoke opposed to placing this question on the ballot. He questioned the goal in making this change in language within the Charter.

Ed Lawrence, Portsmouth resident, spoke in favor of the amendment and placing the question on the ballot.

After three calls and no further speakers, Mayor Sirrell declared the public hearing closed.

C. ORDINANCE AMENDING CHAPTER 5, ARTICLE VII, SECTION 5.702,  
PARAGRAPHS A, E, AND F – BLASTING PERMIT REQUIRED BY REDUCING THE  
NOTIFICATION DISTANCE FROM 1,500 FEET TO 500 FEET AND OTHER RELATED  
CHANGES

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

City Manager Bohenko said that this amendment would modify the abutters' notice and pre-blast survey distances from 1500 feet to 500 feet. This change would bring our regulations into conformance with industry standards. He said that the science and technology used in blasting has improved over the years to such a degree that the need to go beyond 500 feet from the blasting site is no longer necessary.

Deputy Public Works Director Allen discussed the proposed ordinance amendment. He informed the City Council that in addition to bringing the City's regulations in line with current standards, the proposed changes would result in significant cost savings to the City in upcoming projects. He advised the Council that Tom from Maine Drilling and Blasting Company is here this evening to also address the ordinance.

Tom described the procedures followed during blasting and said it is very rare that damage is caused beyond 100 feet from the site. He said that good planning and judgement would make a successful blast.

Gene Hill, Portsmouth resident spoke in favor of the amendments to the ordinance.

Ed Lawrence, Portsmouth resident expressed concern with excessive noise that could be caused from the blasting.

Tom said that there are warning signals that are sounded prior to the blast to prepare people. He said that his company provides pamphlets to the residents to inform them of the procedures and what they can expect.

After three calls and no further speakers, Mayor Sirrell declared the public hearing closed.

Councilor Hanson asked if the readings from the seismograph machines would be provided to the Public Works Department as they were recorded during the blasting.

Tom said it is not required under this ordinance however, other communities do require the readings.

D. RESOLUTION AMENDING THE 1999 STATE REVOLVING LOAN FUND (SRF)  
BORROWING RESOLUTION #13-1999 FOR FOUR WATER SYSTEM  
IMPROVEMENT PROJECTS BY AUTHORIZING AN ADDITIONAL BORROWING OF  
AN AMOUNT UP TO \$1,200,000.00

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

City Manager Bohenko said that \$1.2 million dollars is being proposed to be added to the Resolution to complete the Constitution to Congress watermain project. He said that the \$600,000 for the State Street watermain project has been deemed not necessary at this time. He requested that the Council authorize him to reallocate the \$600,000 towards the Constitution to Congress watermain project and amend the borrowing authorization of Resolution #13-1999 to \$6.45 million.

Ed Lawrence, Portsmouth resident asked what the purpose of this project is.

City Manager Bohenko explained the purpose of the project.

After three calls and no further speakers, Mayor Sirrell declared the public hearing closed.

E. ORDINANCE AMENDING CHAPTER 13, MOBILE HOME ORDINANCE, ARTICLE VI, ALLOWED LOCATIONS SPACE AND GENERAL LAYOUT, BE AMENDED BY THE ADDITION OF NEW SECTION 13.612 ENTITLED SIGNAGE REQUIREMENTS

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

City Attorney Sullivan informed the City Council that he received a call today from the owner of Hillcrest Estates Mobile Home Park advising the City that they would be erecting signage on the streets within the park. He advised the City Council it would be necessary for the ordinance to be amended this evening by adding a fine for violation of the ordinance. He recommended the fine to be \$100 per day.

Councilor Whitehouse said he would like to request a letter from the owners of Hillcrest Estates stating that they would erect street signage throughout the park.

Roberta Shore, Portsmouth resident spoke in favor of the ordinance and urged the City Council to pass the ordinance. She said that it is very dangerous to not have signage throughout the park and thanked the City Council for their efforts.

Barbara Weston, Portsmouth resident spoke in favor of the ordinance and urged the City Council to pass it.

Gene Hill, Portsmouth resident spoke in favor of the ordinance. He said that the signage is needed.

Ed Lawrence, Portsmouth resident said that the safety and health of the residents of the City is important and urged the Council to pass the ordinance.

After three calls and no further speakers, Mayor Sirrell declared the public hearing closed.

## VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

A. First reading of Proposed Amendment to the Salary Ordinance for Non-Union Employees

Councilor Whitehouse moved to pass first reading of the amendment to the Non-Union Salary Ordinance and hold a public hearing and second reading at the September 17<sup>th</sup> City Council meeting. Seconded by Councilor Pantelakos and voted.

- B. First reading of Proposed Amendment in the Salary Schedule for Unclassified Positions regarding Victim/Witness Advocate

Councilor Hanson moved to pass first reading of the amendment to the Salary Schedule for Unclassified Positions Re: Victim/Witness Advocate and hold a public hearing and second reading at the September 17<sup>th</sup> City Council meeting. Seconded by Councilor Grasso and voted.

- C. First reading of Ordinance amending Chapter 7, Article XI, Speed Limits be amended by creating a new subsection to Section 7.1100 Speed Limits entitled G. Speed Limit: 10 MPH – Mt. Vernon Street

Councilor Hanson moved to pass first reading and hold a public hearing and second reading at the September 17<sup>th</sup> City Council meeting. Seconded by Councilor Whitehouse and voted.

- D. Second reading of Ordinance amending Chapter 5, Article VII, Section 5.702, Paragraphs A, E, and F – Blasting Permit Required

Councilor Hanson moved to table the ordinance until language is prepared to require companies to provide the Public Works Department with the recordings from the seismograph machines during the blasting and bring back the ordinance for second reading at the September 17<sup>th</sup> City Council meeting. Seconded by Councilor Hynes.

Councilor Hanson said he does not feel comfortable passing this ordinance without the seismograph machine readings being provided to the Public Works Department as recommended by Tom of the Maine Drilling and Blasting Company.

Councilor Wagner asked the City Attorney if those kinds of things are needed in the ordinance or could they be mandated by the administration.

City Attorney Sullivan said that City Manager Bohenko has recommended that the ordinance include language to allow the Public Works Department to adopt regulations. He said that the regulations would become effective upon approval by the City Council and this would allow the ordinance to be updated from time to time with much greater facilitating.

Councilor Hanson withdrew his tabling motion and Councilor Hynes the second to that motion.

Councilor Hanson moved to amend the ordinance by the addition of a new Section E to read as follows, "The Public Works Director is hereby authorized to adopt regulations consistent with the intent of this ordinance, which regulations shall become effective upon acceptance by the City Council." Seconded by Councilor Wagner and voted.

Councilor Hanson moved to pass second reading of the ordinance as amended and hold third and final reading at the September 17<sup>th</sup> City Council meeting. Seconded by Councilor Pantelakos and voted.

- E. Adoption of Resolution Amending the 1999 State Revolving Loan Fund (SRF) Borrowing Resolution #13-1999 for Four Water System Improvement Projects

Councilor Hanson moved to adopt the amendment to the SRF Borrowing Resolution, #13-1999, as outlined. Seconded by Councilor Grasso. On a unanimous roll call vote 8-0, motion passed.

- F. Second reading of Ordinance amending Chapter 13, Mobile Home Ordinance, Article VI, Allowed Locations Space and General Layout, be amended by the addition of a new Section 13.612 entitled Signage Requirements

Councilor Pantelakos moved to amend the ordinance to include a fine of \$100 per day, and pass second reading and hold third and final reading at the September 17<sup>th</sup> City Council meeting. Seconded by Councilor Grasso.

Councilor Whitehouse requested that the owners of Hillcrest Estates Mobile Home Park submit a letter to the City Attorney stating that they will erect the signage and comply with the ordinance.

Councilor Pantelakos said that she feels it is important to have this ordinance in place and that it is a safety issue.

Councilor Hanson spoke in favor of passing the ordinance. He requested that all mobile home park owners receive a letter regarding the passage of the ordinance along with a copy of the ordinance.

Councilor Hynes said that this ordinance is for the general welfare of the residents of the parks.

Councilor Grasso requested that the letter from Hillcrest estates also include a date of when the signs would be erected. She said if the signs are not in place by the next City Council meeting we should find out why they are not.

Mayor Sirrell passed the gavel to Councilor Hanson.

Mayor Sirrell spoke in favor of the ordinance and the need to pass the ordinance.

Motion passed.

Councilor Hanson passed the gavel back to Mayor Sirrell.

## **IX. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATIONS AND PETITIONS**

- A. Letter from Peter Leonardi requesting permission to perform Chair Massages in Market Square

Councilor Hanson moved to deny the request. Seconded by Councilor Pantelakos and voted.

- B. Letter from John McCafferty requesting the repair of the speed limit sign at the entrance to Osprey Landing and Dovekie Way, the posting of a "Children At Play" sign in Osprey Landing and the clean up of graffiti on the bicycle bridge and repair the bridge

Councilor Hanson advised the Council that the traffic issues have been handled and the Public Works Department would be taking care of them.

Councilor Grasso moved to refer to the City Manager with power. Seconded by Councilor Whitehouse and voted.

- C. Letter from Donald Green regarding the disposal of mosquito breeding materials

City Manager Bohenko said that the ordinance that was passed by the Council was for the storage of tires not the disposal of tires. He said that the disposal of tires is more complicated and costly. He said that residents could place one to two tires out during the bulk clean up in the Spring and Fall. He said the issue of disposing of materials would be reviewed and a report back to the Council would be made.

Councilor Hynes suggested approaching the State Legislature to adopt a law for the mechanism to dispose of such items.

Councilor Wagner moved to refer to the City Manager with power. Seconded by Councilor Pantelakos and voted.

- D. Letter from Jon Wendell requesting the Police Department reduce the noise caused by motorcycles in the downtown area

Councilor Wagner moved to refer to the Police Commission for a report back. Seconded by Councilor Pantelakos.

Councilor Hynes requested that the Police Commission look at this problem citywide and how to deal with it.

Councilor Wagner added that as part of the motion.

Motion passed to read as follows moved to refer to the Police Commission for a report back on how to deal with this problem citywide.

- E. Letter from Phyllis Longver requesting that the City donate funds toward a monument for Civil War Congressional Medal of Honor recipients

Councilor Wagner moved to accept and place the letter on file. Seconded by Councilor Pantelakos and voted.

- F. Letter from Shay Ayres and Karl Carrigan, Canada – US AIDS Vaccine Ride requesting permission to set up two bikes on trainers, a small table with information forms, as well as a bucket for donations and change in front of Café Brioche on Sunday, August 26<sup>th</sup> from 8 a.m. – 6 p.m.

Councilor Wagner moved to refer to the City Manager with power. Seconded by Councilor Pantelakos.

Councilor Whitehouse spoke against placing this event in front of the North Church.

Councilor Grasso expressed concern with the lateness of this item being requested for approval by the City Council from the requestors. She requested that the City Manager develop an administrative policy on placing a deadline for items to be requested for approval by the City Council.

Motion passed.

- G. Letter from Diane Kelley Tefft regarding proposed location for the new Library

Councilor Wagner moved to refer to the Traffic & Safety Committee. Seconded by Councilor Whitehouse.

Councilor Hanson said that this item should be accepted and placed on file.

Councilor Wagner withdrew his motion and Councilor Whitehouse his second to that motion.

Councilor Hanson moved to accept and place the letter on file. Seconded by Councilor Wagner and voted.

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

### **A. CITY MANAGER**

1. Request from a City Council Work Session

City Manager Bohenko said that there is not a need for the work session scheduled for September 10<sup>th</sup> and recommended that the Council cancel this session. He also informed the City Council that Councilor Pantelakos would like to hold a work session regarding the Ocean Road Study Committee Report on October 22<sup>nd</sup> at 6:30 p.m.

Councilor Hanson moved to cancel the September 10<sup>th</sup> work session and schedule October 22<sup>nd</sup> as a work session for an update from the Ocean Road Study Committee. Seconded by Councilor Grasso and voted.



2. Report Back Re: Request to Erect a Telecommunications Tower at the Public Works Facility (Tabled 8/6/01)

City Manager Bohenko said that this item was tabled at the last City Council meeting until more information was provided as to the elevation of the proposed tower. He said that this information has been provided with a site plan as well as photographs to demonstrate the visual impact on the area. He advised the City Council that the Planning Board has approved the location of the tower.

Councilor Hanson moved to remove the item from the table. Seconded by Councilor Grasso and voted.

Councilor Wagner moved to accept the Planning Board's recommendation to approve the installation of a 195' telecommunications tower at the Public Works Facility as requested by Message Center Management. Seconded by Councilor Hynes.

Councilor Wagner requested that the information regarding this request be on file at the Office of the City Clerk, the Mayor's Office and the Library for the public to review.

Councilor Whitehouse asked how many other service providers could go onto this tower.

Richard Quintal, from Message Center Management said that there are 5 available spots on the tower.

Motion passed.

3. Request to Extend Lease with Poco Diablo for City-Owned Property

City Manager Bohenko said that there was renewal options to the last lease for an additional five-year term. He said that the City Council extend the lease for one year until December 31, 2001 and requested that the he bring back a proposal for a long-term lease by the first Council meeting in September. He said that the purpose of holding off on any long-term lease was to determine what the status of the Riverwalk would be and the necessity to relocate the Poco deck. He informed the Council that the City is in the process of applying for T-21 funds for construction of the Riverwalk. The staff feel that the earliest the Riverwalk construction could commence would be the Spring of 2006. He discussed the recommended changes to the economic conditions of the lease. He is requesting that the payment go to \$20,000 per year plus the CPI, Poco's pay a benefit payment of \$9,100 that is put into a special fund for the construction of the Riverwalk and increase this to \$10,000 annually. Further, Poco's would contribute an additional \$5,000 one-time fee to go into this fund and they would be responsible for the property taxes on the deck area, which equate to about \$8,200.00.

Councilor Hanson moved to authorize the City Manager to execute a four-year extension to the lease with Poco Diablo, effective 1/1/02 – 12/31/05, as outlined in his comments dated August 16, 2001. Seconded by Councilor Grasso.

Councilor Wagner said to City Manager Bohenko the intention in the way that this was written is an underlying agreement that there could be an extension after the four years.

City Manager Bohenko said that an extension is possible but that would need to come before the City Council for approval.

Councilor Wagner said that there is no guarantee but the intent would be all things being equal to enter negotiations for further extensions once the city knows about the Riverwalk.

City Manager Bohenko said that the relocation of the deck would also need to take place.

Motion passed.

4. Polling Hours for November 6, 2001 Municipal Election

Councilor Hanson moved to set the polling hours from 8:00 a.m. – 7:00 p.m. for the Municipal Election on Tuesday, November 6, 2001. Seconded by Councilor Hynes and voted.

5. Report Back Re: Biodegradable Yard Waste Bags

City Manager Bohenko said that the City has confirmed through the bid process that we can purchase these biodegradable bags for .35 and it appears that residents can purchase the bags for .39 from two private outlets within the City. He said because of the costs associated with purchasing these bags, along with the administrative costs of reselling them would exceed .39, he would like to withdraw his request to participate in this program.

Councilor Wagner moved to remove this item from the table. Seconded by Councilor Whitehouse and voted.

Councilor Wagner moved to authorize the City Manager to withdraw his proposal to implement a resident purchase program for biodegradable yard waste bags. Seconded by Councilor Whitehouse and voted.

6. Letter from Douglas Knight, Pro Portsmouth, Inc., requesting permission to hold the annual Winter Solstice 2001 (Not on agenda)

Councilor Hanson moved to refer to the City Manager with power. Seconded by Councilor Grasso and voted.

**B. MAYOR SIRRELL**

1. Appointment of three City Council members to the New Library Building Committee (Not of agenda)

Mayor Sirrell passed the gavel to Councilor Hanson.

Mayor Sirrell moved to appoint Councilors Hanson, Grasso and Hynes to the New Library Building Committee. Seconded by Councilor Pantelakos.

Mayor Sirrell said that Councilor Hanson has worked very closely with her on fund raising for the new Library and Councilors Grasso and Hynes would be an added asset to the Committee.

Councilor Marconi spoke against the appointments.

Motion passed with Councilor Marconi voting opposed.

Councilor Hanson passed the gavel back to Mayor Sirrell.

2. Reports

Mayor Sirrell reported on the success of National Night Out 2001. She also reported that the Wibird Street Neighborhood is the newest member of the City Wide Neighborhood Groups.

Mayor Sirrell advised the City Council that she has sent a letter to the Police Commission relative to complaints she has received regarding off road vehicles in the area of Harvard Street and Dodge Avenue. She also reported that City Manager Bohenko would keep the gate locked to the Sherburne Pumping Station because of this problem.

**C. COUNCILOR HANSON**

1. Proposed Charter Amendment relative to the procedure to fix Municipal Salaries
2. Proposed Charter Amendment relative to Gender Neutrality

Councilor Hanson moved to amend Section 4.10 by replacing the word "ordinance" with the word "resolution," and to authorize placement of the proposed Charter amendment re: Procedure to Fix Municipal Salaries on the November 6, 2001 Municipal Ballot, and further, to authorize placement of the proposed Charter amendment re: Gender Neutrality on the November 6, 2001 Municipal Ballot. Seconded by Councilor Grasso and voted.

**XI. MISCELLANEOUS/UNFINISHED BUSINESS**

A. Approval of Donations

1. NH Charitable Foundation from the Henry M. Frechette Memorial Fund in the amount of \$600.00 to support production of an informational brochure regarding Peirce Island

Councilor Whitehouse moved to accept the \$600.00 grant award from the NH Charitable Foundation towards production of an informational brochure regarding Peirce Island. Seconded by Councilor Grasso and voted.

Councilor Grasso requested that Mayor Sirrell send a thank you letter to the NH Charitable Foundation for this grant award.

Councilor Marconi asked if the City Council would approve the brochure before it is provided to the public.

City Manager Bohenko said that Community Development Director Hayden would work with them prior to the brochure going to the public to ensure it meets our needs.

## **XII. ADJOURNMENT**

At 9:15 p.m., Councilor Whitehouse moved to adjourn. Seconded and voted.

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KELLI L. BARNABY, CITY CLERK