

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, APRIL 1, 2002

PORTSMOUTH, NH
TIME: 7:00PM

At 6:15 p.m., an Anticipated "Non-Meeting" with Counsel was held regarding Personnel Matters.

I. CALL TO ORDER

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

II. ROLL CALL

Present: Mayor Sirrell, Assistant Mayor Hanson, Councilors Grasso, Lown, Hynes, Pantelakos, Whitehouse, Marconi and St. Laurent

Absent: None

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

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

PROCLAMATIONS

1. Community Development Block Grant Week – April 1, 2002 – April 7, 2002

Mayor Sirrell read the Proclamation declaring April 1, 2002 – April 7, 2002 as Community Development Block Grant Week. Robert Layton, Chairman of the CDBG Advisory Committee accepted the Proclamation with gratitude.

2. Barber Shop Quartet Singing in America

Mayor Sirrell read the Proclamation recognizing the Barber Shop Quartet Singing in America to the Seacoast Area. Members of the Barber Shop Quartet sang a couple of songs for the City Council in appreciation for their Proclamation.

PRESENTATION

1. Lt. Colonel Gary Cyr and State Police Retired Major Ernest Loomis Re: N.H. Employer Support for the Guard and Reserve Committee

Representatives from the ESGR and the 157th Air Refueling Unit presented plaques to Mayor Sirrell, City Manager Bohenko, Police Chief Russ and Deputy Police Chief Magnant in recognition of their support to the 157th Air Refueling Unit at Pease.

V. PUBLIC COMMENT SESSION

Ralph DiBernardo, said it is important to look ahead at who is running for Governor. He said candidate Norman made the comment to him and his wife that Portsmouth should stop complaining about what we send to the State for the statewide property tax.

Wayne Ecker, said that the water problem on Banfield Road is occurring again. He asked the City Manager to look into the issue.

Peter Bresciano, said that on this months cable bill the charge for the franchise fee had increased.

VI. PUBLIC HEARINGS

A. CAPITAL IMPROVEMENT PLAN (CIP) FY 2003-2008

Mayor Sirrell read the legal notice, declared the Public Hearing open and called for speakers.

City Manager Bohenko said that the process to prepare the CIP for 2003-2008 began in October 2001. He requested Planning Director Holden to provide a brief presentation on the CIP.

Various department personnel explained the different sections of the CIP. Planning Director Holden reviewed the Vehicle and Equipment Replacement and Information System Improvement portions, Building and Infrastructure was presented by Public Works Director Parkinson, Transportation and Parking Engineer Burke reviewed the Transportation Improvements and the Enterprise Funds for water and sewer were presented by Deputy Public Works Director Allen.

City Manager Bohenko said that the CIP is a comprehensive plan for the next six years and many of the projects will be funded through grants.

Jim Melfi, Portsmouth resident, thanked the City Council and Community Development Director Hayden for all of the help extended for the completion of improvements to the Pannaway Park. He spoke in support of the CIP and the funding for the improvements to Pannaway Park.

Wayne Ecker, Portsmouth resident, said there needs to be more inspection done by the City when upgrades are made to the streets and sidewalks. He said that some of the upgrades to the streets and sidewalks are being done inadequately.

Ed Lawrence, Portsmouth resident, said that the presentation was very informative and spoke in support of the CIP. He did express concern regarding the amount of funding needed for these projects.

After three calls and no further speakers, Mayor Sirrell declared the Public Hearing closed.

B. RESOLUTION AUTHORIZING A SUPPLEMENTAL APPROPRIATION FOR NECESSARY EXPENDITURES FOR THE OPERATION OF THE FIRE DEPARTMENT

Mayor Sirrell read the legal notice, declared the Public Hearing open and called for speakers.

City Manager Bohenko said that the Fire Department is requesting a supplemental appropriation of \$285,000 for the operation of the department.

Acting Fire Chief LeClaire provided a brief overview of the operations at the Fire Department and the 2001-2002 activities. He advised the Council in order to assure that there would be 14 firefighters on the night shift, it is necessary for this appropriation. He said that this additional appropriation is needed and requested approval of the Resolution by the City Council.

After three calls and no speakers, Mayor Sirrell declared the Public Hearing closed.

C. ORDINANCE AMENDING CHAPTER 8, ARTICLE III, SECTION 8.320 – CITY ARBORIST

Mayor Sirrell read the legal notice, declared the Public Hearing open and called for speakers.

City Manager Bohenko said the purpose of this amendment is to remove the City Arborist from being a member of the Conservation Commission. He said that the City Arborist would however, be available to the Conservation Commission as needed.

Alanson Sturgis, Chair of the Conservation Commission, spoke in favor of the Ordinance and urged passage by the City Council.

Nancy Johnson, Portsmouth resident, spoke in favor of the ordinance.

Ed Lawrence, spoke in favor of the amendment to the ordinance.

After three calls and no further speakers, Mayor Sirrell declared the Public Hearing closed.

D. ORDINANCE AMENDING CHAPTER 5, ARTICLE VIII, SECTION 5.801 – 5.810 – ALARM SYSTEMS MONITORED BY THE CITY

Mayor Sirrell read the legal notice, declared the Public Hearing open and called for speakers.

Deputy Police Chief Magnant advised the City Council that the Police Department responded to 2,200 alarms and only 1% of the alarms were real. He said that the amendment to the ordinance has a mechanism for dealing with chronic offenders and provides the Police Department with updated information for their computer system. The ordinance calls for an increase in fines and the requirement of an annual permit. He reported that the ordinance also allows for the removal of a permit for chronic offenders.

Peter Bresciano, Portsmouth resident, provided the City Council with a handout outlining his comments for further amendments to the ordinance. He spoke against the ordinance and asked the City Council to table action on this issue until a more thorough review is undertaken.

After three calls and no further speakers, Mayor Sirrell declared the Public Hearing closed.

VII. APPROVAL OF GRANTS/DONATIONS

- A. Request for Approval of a Grant Award from the N.H. Highway Safety Agency
- B. Acceptance of Donations for the Portsmouth Police Honor Guard

Councilor Grasso moved to approve and accept the grant award/donations to the Portsmouth Police Department as listed. Seconded by Councilor St. Laurent and voted.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance amending Chapter 10, Article II, Section 10.202 for the Rezoning of Land on Deer Street

Councilor St. Laurent moved to pass first reading and hold a Public Hearing and second reading at the April 15th City Council meeting. Seconded by Councilor Whitehouse and voted.

- B. Second reading of Ordinance amending Chapter 8, Article III, Section 8.302 – City Arborist

Councilor Pantelakos moved to pass second reading and hold third and final reading at the April 15th City Council meeting. Seconded by Councilor Whitehouse.

Councilor Whitehouse said he feels that the City Arborist should be a non-voting member of the Conservation Commission.

City Manager Bohenko said that the Conservation Commission would require the City Arborist to attend meetings when deemed necessary.

Councilor Marconi said that who ever is appointed as City Arborist should be a Portsmouth resident.

Motion passed.

- C. Second reading of Ordinance amending Chapter 5, Article VIII, Sections 5.801-5.810 – Alarm Systems Monitored by the City

Deputy Police Chief Magnant said that the Police Department needs a way to deal with chronic offenders and this ordinance does that.

Assistant Mayor Hanson moved to table the ordinance until a work session is held. Seconded by Councilor Grasso.

Councilor Lown said that the ordinance is not clear and needs to be clarified.

Mayor Sirrell said a work session should be held to discuss the concerns expressed here this evening further.

Councilor Grasso said that permits should not be required on an annual basis.

Motion passed.

- D. Adoption of Resolution Authorizing a Supplemental Appropriation for Necessary Expenditures for the Operation of the Fire Department

Councilor Pantelakos moved to adopt the resolution for a supplemental appropriation in the amount of \$285,000 to be appropriated from Undesignated Fund Balance to pay the current Fire Department expenditures for the Fiscal Year ending June 30, 2002. Seconded by Councilor Grasso.

City Manager Bohenko said that the funds would come from the undesignated fund balance. The monies are kept in reserve for these types of emergencies. He said adoption of the resolution requires a two-thirds vote of the Council.

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

- E. Third and final reading of Ordinance amending Chapter 8, Article II, Section 8.206 – Behavior (in City Parks)

Councilor Grasso moved to pass third and final reading. Seconded by Councilor St. Laurent. Councilor Lown voted opposed.

- F. Third and final reading of Ordinance amending Chapter 10 regarding Impact Fees

Councilor Lown moved to pass third and final reading. Seconded by Councilor St. Laurent and voted.

- G. Third and final reading of Ordinance amending Chapter 7, Article XI, Section 7.1100 – Speed Limits, Sub-Section E – Speed Limit 25 MPH Portsmouth Boulevard and Osprey Drive

Councilor Whitehouse moved to pass third and final reading. Seconded by Councilor Pantelakos and voted.

IX. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATIONS AND PETITIONS

- A. Request for Renewal of Sidewalk Obstruction Licenses for the following businesses with no changes from last year
- Fair Skies: 1 A-frame sign
 - Serendipity: 2 A-frame signs
 - Me & Ollies Café: 10 tables, 30 chairs and 1 A-frame sign
 - Chamber of Commerce – 1 A-frame sign

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

- B. Letter from Joseph Webster, National Multiple Sclerosis Society, requesting permission to hold a MS Walk on Saturday, April 20, 2002

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

- C. Letter from Steve Howard, New Hampshire Coalition for Safe Roads, requesting to discuss a resolution opposing an increase to truck size and weights on New Hampshire interstate highways

Councilor Pantelakos moved to refer to the Traffic & Safety Committee. Seconded by Councilor Whitehouse and voted.

Assistant Mayor Hanson requested a copy of the resolution from the New Hampshire Coalition for Safe Roads prior to the Traffic & Safety Committee meeting.

- D.1. Letter from Douglas Knight, Pro Portsmouth, requesting closure of Pleasant Street from the State Street intersection to Market Square for Children's Day on Sunday, May 5, 2002 from 12 noon to 4:00 p.m.

Assistant Mayor Hanson moved to refer to the City Manager with power. Seconded by Councilor Lown.

City Manager Bohenko said it is important from a safety standpoint to close the street.

Motion passed.

- D.2. Letter from Douglas Knight, Pro Portsmouth, requesting permission to close the public parking lot at the corner of Market and Hanover Streets for Children's Day on Sunday, May 5, 2002

Councilor Whitehouse moved to refer to the City Manager with power. Seconded by Councilor St. Laurent.

City Manager Bohenko said he would be meeting with Doug to discuss moving some events to another lot or location because of conflict with pedestrians and vehicles.

Motion passed.

- E. Letter from AT&T Broadband, requesting approval to exclude non-subscriber revenue from the calculation of franchise fees

Councilor St. Laurent moved to authorize the City Manager to ask AT&T Broadband not to apply the advertised revenue to the franchise fee of the subscriber's bill and, further, that we advise AT&T that we are doing this under protest and are challenging their interpretation of the FCC ruling. Seconded by Councilor Pantelakos and voted.

- F. Letter from Michael Warhurst, expressing concerns regarding the proposed casino in Maine

Councilor Hynes moved to accept and place the letter on file. Seconded by Councilor St. Laurent and voted.

Councilor Grasso moved that the City Council go on record opposing a casino in the seacoast area. Seconded by Assistant Mayor Hanson.

Mayor Sirrell passed her gavel to Assistant Mayor Hanson.

Mayor Sirrell said that she, City Manager Bohenko and Police Chief Russ are opposed to a casino in the seacoast area.

Councilor Lown said that he would abstain from voting because he does not feel the City Council should be voting on this matter because of the lack of information.

Councilor Pantelakos said that the legislature has voted not to allow a casino in the State of New Hampshire so this motion is not necessary.

Councilor Grasso said even though the casino would be in Maine it would have a direct effect on Portsmouth.

Councilor Marconi asked Councilor Grasso what the seacoast area means to her.

Councilor Grasso responded the immediate area surrounding Portsmouth.

Councilor Grasso moved to amend the motion to read that the City Council goes on record opposing a casino in the Portsmouth area. Seconded by Assistant Mayor Hanson.

On a roll call vote 6-3, motion failed to pass. Mayor Sirrell, Councilor Grasso and Assistant Mayor Hanson voted in favor. Councilors Lown, Hynes, Pantelakos, Whitehouse, Marconi and St. Laurent voted opposed.

Assistant Mayor Hanson passed the gavel back to Mayor Sirrell.

- G. Letter from Joan Jones and Elizabeth Binnie, submitting a petition opposing a vehicular access to 46 Livermore Street through a portion of Haven Park

Councilor Grasso moved to refer to the Planning Board and the City Manager for a report back. Seconded by Councilor Pantelakos and voted.

X. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Adoption of Proposed Capital Improvement Plan (CIP) FY 2003-2008

Assistant Mayor Hanson moved to adopt the City of Portsmouth's Capital Improvement Plan for FY 2003-2008. Seconded by Councilor Hynes.

Councilor Whitehouse said he would like to see a 30% reduction in the CIP.

Councilor Grasso moved to amend the Capital Improvement Plan by moving the \$100,000 for the new parking facility at the Worth Lot from FY 2003-2004 and moving the \$6,000,000 for the parking facility at the Worth Lot from FY 2004 to FY 2005. Seconded by Councilor St. Laurent and voted.

On a roll call 8-1, voted to pass the main motion as amended. Assistant Mayor Hanson, Councilors Grasso, Lown, Hynes, Pantelakos, Marconi, St. Laurent and Mayor Sirrell voted in favor. Councilor Whitehouse voted opposed.

2. Proposed Truck Loading Zone Ordinance

Assistant Mayor Hanson moved to authorize the City Manager to bring back for first reading a proposed Truck Loading Zone Ordinance at the May 20th City Council meeting. Seconded by Councilor Marconi and voted.

3. Request to Extend Lease Agreement for Trash Compactor on Ceres Street

City Manager Bohenko said that the agreement would extend the lease through November 30, 2002.

Councilor Marconi moved to authorize the City Manager to extend the License Agreement between the City of Portsmouth and Old Ferry Landing, Inc., Poco Diablo, Inc., and Stockpot, Ltd. for the period December 1, 2001 through November 30, 2002. Seconded by Councilor Grasso and voted.

4. Request for Approval of Grant Applications to the NH Highway Safety Agency

Councilor Grasso moved to approve the submission of the grant applications by the Public Works and Police Departments to the NH Highway Safety Agency, as listed. Seconded by Councilor Marconi.

Councilor St. Laurent said he would vote against the motion because it is an unnecessary expense.

Assistant Mayor Hanson said that 50% would be paid by the State and it is a necessary expense for safety measures.

Councilor Lown said he would also vote against the motion.

On a roll call vote 7-2, motion passed. Assistant Mayor Hanson, Councilors Grasso, Hynes, Pantelakos, Whitehouse, Marconi and Mayor Sirrell voted in favor. Councilors Lown and St. Laurent voted opposed.

B. MAYOR SIRRELL

1. Appointments

The City Council considered the appointment of Donald Green to the Conservation Commission from an alternate to a regular member. This appointment will be voted on at the April 15th City Council meeting.

Councilor Marconi moved to appoint John Gregg to the Cable Commission until April 1, 2005. Seconded by Councilor Pantelakos and voted.

2. Acceptance of Donation to the Coalition Legal Fund (Not on Agenda)

Mayor Sirrell passed the gavel to Assistant Mayor Hanson.

Mayor Sirrell moved to accept the \$2,000 contribution from the Town of Greenland to be placed in the Coalition Legal Fund. Seconded by Councilor Pantelakos and voted.

3. Acceptance of Donations for the New Public Library

Mayor Sirrell moved to accept a \$100 contribution from Raimond Bowles for the New Public Library Fund. Seconded by Councilor Lown and voted.

Mayor Sirrell moved to accept a \$200 contribution from David and Eleanor Sanderson for the New Public Library Fund. Seconded by Councilor Lown and voted.

4. Acceptance of Donations for the Old State House

Mayor Sirrell moved to accept a \$500 contribution from Jeremy Waldron for the Old State House Fund. Seconded by Councilor Grasso and voted.

Assistant Mayor Hanson passed the gavel back to Mayor Sirrell.

5. Reports

Mayor Sirrell announced that the NH Office of Emergency Management is holding an informational session on Thursday, April 4th at 7:00 p.m. at City Hall to provide community leaders with information concerning potassium iodide, or KI tablets from the U.S. Nuclear Regulatory Commission.

C. COUNCILOR ST. LAURENT

1. Discussion of MBTE gasoline additive

Councilor St. Laurent moved to send a letter to Governor Shaheen and the State Senators from the City Council requesting the removal of the MBTE gasoline additive in the State of New Hampshire. Seconded by Councilor Marconi and voted.

XII. ADJOURNMENT

At 10:30 p.m., Councilor Marconi moved to adjourn. Seconded by Councilor Pantelakos and voted.

KELLI L. BARNABY, CITY CLERK