

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, APRIL 15, 2002

PORTSMOUTH, NH
TIME: 7:00PM

At 6:15 p.m., a Work Session was held to provide the City Council with an update regarding the Revaluation Process.

I. CALL TO ORDER

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

II. ROLL CALL

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

Absent: Councilor St. Laurent

III. INVOCATION

Mayor Sirrell asked everyone to join in a moment of silent prayer in memory of Charles Vetter, Sr. who recently passed away.

IV. PLEDGE OF ALLEGIANCE

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

V. ACCEPTANCE OF MINUTES – MARCH 18, 2002 AND APRIL 1, 2002

Assistant Mayor Hanson moved to accept and approve the minutes of the March 18, 2002 and April 1, 2002 City Council meetings. Seconded by Councilor Marconi and voted.

VI. PUBLIC COMMENT SESSION

Steve Miller, thanked the City Council for their support for the Watershed Restoration Project Grant. He informed the City Council that there is an informational meeting regarding the project on Thursday, May 30th at Redhook Brewery from 7:00 p.m. – 9:00 p.m. He also announced that the Advocates for the North Mill Pond have scheduled their annual clean up day for Saturday, June 1st.

Wayne Ecker, spoke against the perambulation of City boundaries at a cost of \$30,000.00. He also said any funds remaining in the snow removal budget should be used for snow removal costs next year.

Peter Bresciano, congratulated the individuals that went to Concord and testified on the Sunset Bill regarding the Statewide Property Tax issue. He spoke against the cost associated with the perambulation of the City boundaries. He said if the State requires a perambulation of boundaries every 7 years then they should fund the costs of the project.

VII. PUBLIC HEARINGS

A. ORDINANCE AMENDING CHAPTER 10, ARTICLE II, SECTION 10.202 FOR THE REZONING OF LAND ON DEER STREET

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

City Manager Bohenko requested that Planning Director Holden provide a brief presentation regarding this matter.

Planning Director Holden said that this is a change to the zoning map. He said that the Planning Board is recommending approval of the rezoning request to return the area to be zoned central business. He said the current zoning of office research does not work without a change of use.

Bob Thoresen, representing the property owners spoke in support of the request. He provided a brief history of the zoning for this area and how the land use has changed over time. He said the area should be zoned central business district to allow for the uses currently located in this area.

Duncan McCullen, Portsmouth resident, asked what the practical effect of the change to the ordinance would be for this area.

Planning Director Holden said that this would allow the area to take advantage of the uses in the central business district versus the uses allowed under office research.

Mr. Thoresen said none of the businesses currently located in this area are allowed under the current zoning of office research. He said that the properties would become conforming under the rezoning. He also advised the Council that the property owners have no plans to develop the property at this time.

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

VIII. APPROVAL OF GRANTS/DONATIONS

A. Acceptance of Donation for the Restoration of the Stephen Chase Tombstone in North Cemetery

Councilor Grasso moved to accept the donation of \$500 from the NH Charitable Foundations (Louise H. Tallman Fund) for the restoration of the Stephen Chase tombstone. Seconded by Councilor Hynes.

Assistant Mayor Hanson requested that a thank you letter be sent to Louise Tallman.

Motion passed.

- B. Acceptance of Greater Piscataqua Community Foundation Grant for Lullabies & Reveilles Community Arts Impact Project

Councilor Grasso moved to authorize the City Manager to accept and expend a grant in the amount of \$5,000 from the Greater Piscataqua Community Foundation in support of the Lullabies & Reveilles Community Arts Impact Project. Seconded by Councilor Lown.

Nancy Hill said that this group is involved in the arts and this project documents all the arts in the city since 1996. She said that the document would be available for other communities to view.

Motion passed.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second reading of proposed amendment to Chapter 10, Article II, Section 10.202 for the Rezoning of Land on Deer Street

Assistant Mayor Hanson moved to pass second reading and hold third and final reading at the May 6th City Council meeting. Seconded by Councilor Marconi and voted.

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

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

X. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from John Chagnon, Ambit Engineering, Inc. regarding Site Review Application for property located at 22 Deer Street

Assistant Mayor Hanson moved to refer the request to construct a sidewalk in the City's right-of-way as submitted by Ambit Engineering to the City Manager with power. Seconded by Councilor Marconi and voted. Councilor Lown abstained from voting.

- B. Letter from Arthur Parrott regarding an ordinance which prohibits members of the Zoning Board of Adjustment from holding another city office

Mayor Sirrell passed the gavel to Assistant Mayor Hanson.

Mayor Sirrell said that Arthur is a Board of Registrar and because of that he cannot serve on the Board of Adjustment. She said that City Attorney Sullivan is recommending eliminating that restriction from the ordinance. She said that all Election Officials would be removed from the restriction in the ordinance.

City Attorney Sullivan said that an Election Official or Board of Registrar should not be prohibited from serving on the Board of Adjustment or Planning Board. He said that good people are being eliminated from serving on these boards because they work with the election process. He said he would draft the ordinance for first reading at the next City Council meeting.

Mayor Sirrell moved to refer to the City Attorney to draft an ordinance for first reading at the May 6th City Council meeting. Seconded by Councilor Pantelakos.

Councilor Marconi spoke opposed to amending the ordinance to serve one person.

Councilor Whitehouse spoke in favor of the amendment to the ordinance.

Councilor Lown suggested deleting the ordinance in its entirety.

Councilor Hynes said that this is a minor ordinance change.

Councilor Grasso said that she agrees with Councilor Marconi. She said if Arthur wanted to continue to serve on a land use board he could have resigned as a Board of Registrar.

Councilor Lown requested that City Attorney Sullivan provide examples of when conflicts occur from people serving on boards because of the ordinance.

On a roll call vote 6-2, motion passed. Mayor Sirrell, Councilors Lown, Hynes, Pantelakos, Whitehouse and Assistant Mayor Hanson voted in favor. Councilors Grasso and Marconi voted opposed.

Assistant Mayor Hanson passed the gavel back to Mayor Sirrell.

C. Letter from Peter Bresciano regarding Emergency Alarm Ordinance

Mayor Sirrell passed her gavel to Assistant Mayor Hanson.

Mayor Sirrell moved to establish a sub-committee to review and provide recommendations to the City Council regarding the Emergency Alarm Ordinance. The Committee will be made up of 3 City Councilors, a representative of the Police Department, a resident and the City Manager. Further, moved to refer the letter to the sub-committee for their review. Seconded by Councilor Hynes.

Mayor Sirrell announced that Councilors Lown, Pantelakos and Whitehouse will serve as the Council representatives and Peter Bresciano will serve as the resident.

Motion passed.

Assistant Mayor Hanson passed the gavel back to Mayor Sirrell.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Report Back Re: Perambulation of City Boundaries

City Manager Bohenko said that Councilor Pantelakos requested at the March 18th City Council meeting that he research how much it would cost to have a perambulation of the City boundaries done. He said it would cost \$5,000 to have a perambulation done of Rye, New Castle, Greenland, and Newington boundaries and \$25,000 for the perambulation of the Kittery and Eliot boundaries. He said that this project could be done in two phases. He advised the Council that the last perambulation on file with the City Clerk is from 1929, however, there was a perambulation done in 1977 but that was not placed on file.

Councilor Pantelakos moved to authorize the City Manager to spend up to \$30,000 from the FY03 Capital Fund Contingency Account for the perambulation of all City boundaries, in accordance with RSA 51:2. Seconded by Councilor Whitehouse.

Councilor Marconi spoke opposed to having a perambulation done of the boundaries in Maine.

Councilors Pantelakos said that we should know where are lines are in Maine.

Councilor Whitehouse expressed concern in doing a perambulation for the Maine boundaries.

City Manager Bohenko suggested starting with Phase I to see how that works and then coming back to the City Council to receive direction on Phase II.

Assistant Mayor Hanson moved to authorize the City Manager to spend up to \$5,000 for the perambulation of the NH boundaries. Seconded by Councilor Whitehouse.

Assistant Mayor Hanson said we can meet our obligation to have a perambulation done for Rye, New Castle, Greenland and Newington but we should stay clear away from the Maine boundaries. He said that the court has made its decision on the lines for Kittery and Portsmouth and we have to live with it.

Councilor Lown said he is not in favor of spending money for a perambulation of City boundaries. He said that the City Council could walk the boundaries and file a letter with the State without spending any funds.

Councilor Pantelakos moved to lay the item on the table. Seconded by Councilor Grasso.

City Attorney Sullivan said in order to bring this item back before the City Council it would require a two-thirds vote or prior notice that the item would appear on an agenda.

On a unanimous roll call vote 8-0, motion to lay the item on the table passed.

2. Proposed License Agreement for 1725 Woodbury Avenue

City Manager Bohenko said that the agreement would allow for improvements in the City's right-of-way in front of the car wash on Woodbury Avenue.

Assistant Mayor Hanson informed the City Council that the Traffic & Safety Committee have not reviewed this item.

Mayor Sirrell asked if this would impact the Mobile Home Park and if the residents have been made aware of this project.

City Manager Bohenko asked that Planning Director Holden come forward to answer the question of Mayor Sirrell.

Planning Director Holden said that there were two public hearings on this matter and all abutters were notified. He said that he discussed the project with the Parking and Transportation Director who felt that this matter did not need to go before the Traffic & Safety Committee.

City Manager Bohenko recommending referring this matter to the Traffic & Safety Committee for a report back.

Assistant Mayor Hanson said that the Traffic & Safety Committee would make an advisory recommendation but it is not an approval board.

Councilor Lown moved to approve the license agreement subject to the recommendation of the Traffic & Safety Committee. Seconded by Councilor Marconi.

Councilor Whitehouse requested that this issue come back to the City Council on a Traffic & Safety Committee action sheet for approval by the City Council.

Motion passed.

3. Request for Approval of Access Easement Deed at 406 US Route 1 Bypass

City Manager Bohenko said that there is a change in the easement deed and if there are questions regarding this matter Attorney Loughlin is present to answer them for the City Council.

Planning Director Holden said that this application has come before the Site Review and Traffic & Safety Committees. He said that the easement is intended for water service to this site and would permit municipal crews access for maintenance and operational purposes.

Assistant Mayor Hanson moved to approve the proposed Access Easement Deed and authorize execution by the City Manager, subject to the approval of the City Attorney as to its content and form. Seconded by Councilor Marconi and voted.

City Manager Bohenko announced that April 22-26th, is spring clean-up week. Also, Saturday, April 27th is household hazardous waste day. Materials may be brought to the Public Works Facility at 680 Peverly Hill Road from 8:00 a.m. – 1:00 p.m.

City Manager Bohenko also addressed the snow removal budget. He said that last year the City spent over \$400,000 on snow removal and because of that we were unable to stock our salt shed with salt and sand for the following year. He said because there were funds remaining in the snow removal budget this year we were able to stock our salt shed as we normally do but could not last year.

Mayor Sirrell requested that City Manager Bohenko send a letter to Mr. Ecker regarding the snow removal budget. She also requested if Mr. Ecker has questions of this nature in the future to put them in writing to Mr. Bohenko so he is able to respond to them.

B. MAYOR SIRRELL

1. Amendment to City Council Rule 45 – Public Hearings

Mayor Sirrell said that she has a proposed amendment to City Council Rule 45 regarding Public Hearings that she would like the City Council to consider at this meeting and a vote would take place at the May 6th City Council meeting.

Mayor Sirrell passed her gavel to Assistant Mayor Hanson.

Assistant Mayor Hanson requested that Mayor Sirrell read the proposed rule for the City Council.

Mayor Sirrell said that we have had a constant problem with a person coming before the City Council during public hearings and not speaking to the issue at hand. She said that she does not feel she should have to put up with the harassment from this individual.

Councilor Grasso suggested adding a sentence explaining what would happen if the rule was violated.

City Attorney Sullivan said if a person is ruled out of order they are not longer allowed to speak.

Councilor Whitehouse said he would vote against the amendment to the rule because the Mayor can regulate the time a person is allowed to speak.

City Attorney Sullivan said that the Council has the right to over rule the Mayor with 5 votes.

3. Donation of the Coalition Legal Fund

Mayor Sirrell moved to accept the \$200 contribution from the Town of Easton to be placed in the Coalition Legal Fund. Seconded by Councilor Grasso and voted.

2. Acceptance of Donations for the New Public Library

Mayor Sirrell moved to accept the \$75 contribution from Lewis G. Harriman III for the New Library Building Fund. Seconded by Councilor Whitehouse and voted.

Assistant Mayor Hanson passed the gavel back to Mayor Sirrell.

4. Appointment

Councilor Grasso moved to appoint Donald Green as a regular member of the Conservation Commission until April 1, 2005. Seconded by Councilor Pantelakos and voted.

The City Council considered the reappointment of John Leith to the Portsmouth Housing Authority and the appointment of Tara Trafton to the Portsmouth Economic Development Loan Program (PEDLP). These appointments will be voted by the City Council at the May 6th City Council meeting.

5. Reports

Mayor Sirrell read a thank you note from City Clerk Barnaby to the City Council for the flowers sent to her during her recent surgery.

Mayor Sirrell read a letter from Bill Clark regarding the tables and chairs at Me & Ollie's blocking the crosswalk and sidewalk. City Manager Bohenko said that this matter would be referred to Zoning Officer Page for review.

Mayor Sirrell announced that the Stephen Chase tombstone would be unveiled on Sunday, May 5th at 11:00 a.m. in North Cemetery.

Mayor Sirrell informed the City Council that she received a letter from Gordon Humphrey regarding MBTE gasoline additives.

C. ASSISTANT MAYOR HANSON

1. Traffic & Safety Committee Action Sheet and Minutes of the March 21, 2002 meeting

Assistant Mayor Hanson moved to accept and approve the action sheet and minutes of the March 21, 2002 Traffic & Safety Committee meeting. Seconded by Councilor Lown and voted.

2. Parking Committee Action Sheet and Minutes of the March 21, 2002 meeting

Assistant Mayor Hanson moved to accept and approve the action sheet and minutes of the March 21, 2002 Parking Committee meeting. Seconded by Councilor Grasso.

Councilor Whitehouse expressed concern regarding the regulation of parking at Peirce Island. He requested that City Manager Bohenko and Parking and Transportation Engineer Burke meet to discuss parking enforcement issues at Peirce Island.

City Manager Bohenko said that we are still working on the striping of the parking lot at Peirce Island.

Motion passed.

D. COUNCILOR GRASSO

1. Earth Day Tree Planting – April 25th

Councilor Grasso announced that Earth Day is Monday, April 22nd and there will be a tree planting ceremony on Thursday, April 25th at 2:15 p.m. in Haven Park.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Mayor Sirrell announced the upcoming City Council meetings/work sessions for April and May.

- Monday, April 29th 6:30 p.m. Work Session re: School Dept. FY03 Budget
- Thursday, May 2nd 6:30 p.m. Work Session re: Police Dept. FY03 Budget
- *Monday, May 6th 7:00 p.m. Regular City Council meeting*
- Wednesday, May 8th 6:30 p.m. Work Session re: Fire Dept. FY03 Budget
- Monday, May 13th 6:30 p.m. Work Session re: Municipal FY03 Budget
- *Monday, May 20th 7:00 p.m. Regular City Council meeting*

XIII. ADJOURNMENT

At 8:45 p.m., Assistant Mayor Hanson moved to adjourn. Seconded and voted.

KELLI L. BARNABY, CITY CLERK