

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, DECEMBER 2, 2002

PORTSMOUTH, NH  
TIME: 7:00PM

At 6:00 p.m., an Anticipated "Non-Meeting" with counsel was held regarding negotiations and personnel matters – RSA 91-A:2, and RSA 91-A:2, I(b-c).

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

Mayor Sirrell called the meeting to order at 7:15 p.m.

### **II. ROLL CALL**

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

### **III. INVOCATION**

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

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

Assistant Mayor Hanson led in the Pledge of Allegiance of the Flag.

### **V. ACCEPTANCE OF MINUTES – NOVEMBER 18, 2002**

Councilor St. Laurent moved to accept and approve the City Council minutes of the November 18, 2002 meeting. Seconded by Councilor Marconi and voted.

### **VI. PUBLIC COMMENT SESSION**

George Hosker announced that the Holiday Parade would be held on Saturday, December 7, 2002 at 6:00 p.m. He said that the lighting of the Christmas tree would take place just prior to the parade.

Ned Reynolds urged the City Council to attend the public forum on Tuesday, December 3<sup>rd</sup> at the Community Campus on green building. He said green building is main stream and allows you to build better buildings with taxpayers money.

Peter Bresciano spoke against the Leave No Child Behind Program and urged the City to advise the Federal Government that we will not comply with the program.

Joshua Cyr announced the various events that would take place on December 31<sup>st</sup> for New Years Portsmouth. He said that the fireworks would be held at 8:30 p.m. He said that this would be a quality family event for all.

Ed Lawrence spoke opposed to the increase in taxes from the recent revaluation of properties. He said that this was the highest increase in taxes in years and his taxes alone went up 25%.

Jim Genimatas said that the people moving into this city with deep pockets are pushing out the residents that have lived here their whole life. He said many of the people that have lived here for years are doing so on an average income and can no longer afford to live here. He said the answer he has been given is to sell his home and make a large profit to move somewhere else. He said he does not feel he should have to leave the home he has known most of his life. He urged the Council to have a zero increase in the next budget.

Rachel Hamilton expressed concern with building the new library at the JFK site. She said that there are many concerns that have been expressed by the neighborhood that have not been answered by the city.

## **VII. PUBLIC HEARING**

### **A. ORDINANCE AMENDING CHAPTER 7, ARTICLE XII, SECTION 7.1200 – PARKING FOR THE WALKING DISABLED**

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

John Burke said that this amendment strengthens the language of the current ordinance. He said that the District Court voids tickets because this language is not part of the ordinance.

City Clerk Barnaby read a letter received from Randa Charland regarding the amendment to the ordinance.

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

### **B. ORDINANCE AMENDING CHAPTER 3, ARTICLE III, SECTION 3.111 – GARBAGE RECEPTACLES AND CHAPTER 8, ARTICLE I, SECTION 8.103 – DUMPING PROHIBITED, AND CHAPTER 3, ARTICLE II, SECTION 3.2 – DISPOSAL OF NON-RECYCLABLE AND RECYCLABLE MATERIALS AND CHAPTER 14, ARTICLE I, SECTION 14.108 – GARBAGE AND RUBBISH DISPOSAL BE DELETED IN ITS ENTIRETY**

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

City Manager Bohenko asked Silke Psula, Solid Waste Coordinator to provide a summary of the ordinance. He said that this ordinance will make recycling mandatory and creates an on-demand bulky waste collection for residents.

Silke Psula, Solid Waste Coordinator, said that solid waste management is becoming a greater issue in Portsmouth, as well as all of New Hampshire. Disposal options are decreasing and prices increasing. The Solid Waste Group's budget is 1 million dollars or 24% of the Public Works Department budget. In the endeavor to implement improved solid waste management practices at a cost savings, some changes have been made and/or are being proposed, as is the case with the solid waste ordinance before the Council at this time.

The solid waste ordinance on the books at this time is spread out between three different Sections of the Ordinances of the City of Portsmouth. And quite frankly it is not current with today's solid waste management practices and some environmental considerations. Therefore Public Works has put forth this ordinance. The significant changes to the ordinance are:

- Add definitions;
- Establish rules for Recycling Center;
- Establish year round on-demand curbside collection of bulky waste; and
- Establish mandatory recycling.

There is significant cost savings as a result of these changes. For example, by establishing the Recycling Center and on-demand bulky waste collection, we are able to separate wood from the waste stream and divert it from the landfill. We have identified an outlet where we can dispose of wood at half the cost (\$35/ton) then if we were to dispose of it at the landfill. To give you hard numbers on savings: in 2002, we have already disposed of 350 tons of wood. If we had taken the wood to the landfill, it would have cost the City \$25,900. But by identifying a cheaper disposal market, the City saved \$13,650. This type of savings can also be calculated with the other materials we are diverting from the landfill.

With regard to mandatory recycling, it is not a significant change in "life style" for Portsmouth residents. Already approximately 18% of the waste is being recycled. The actual program itself, i.e. the type of material collected curbside – glass, plastic tin, aluminum, paper, etc., is not being changed. By going mandatory (creating good practices and routines, providing education and outreach) will allow us to divert a greater amount from the landfill at a cost savings. Namely, taxpayers should not have to pay twice on their disposal dollar. The taxpayer's dollar goes toward recycling, whether they recycle or not. The contractor will get paid if he picks up 1 bottle or 20. Therefore, if someone chooses not to recycle, we still pay the recycling contractor and again at the landfill via an increased tonnage tipping fee.

In 2001 the City disposed a total of 9,144 tons of trash; of that over 2,000 tons were recycled. In 2002 (January through October), the City disposed of 7,400 tons of trash; of that 2,000 tons were recycled – we have already matched the recycling tonnage from 2001 with 2 months left to go. In addition we diverted a greater amount of recyclable material based on the total amount of tonnage in 2002 thus far. This translates to a substantial cost savings.

To summarize, any time we put forth a proposal for improved solid waste management practices; it is with fiscal responsibility, customer service and environmental compliance as the primary objective. Certainly we feel this ordinance fits the bill. And we'd like to thank you for your interest in solid waste management.

Steve Scott spoke in favor of the ordinance and its passage. He said that on-demand bulky waste collection is great and more convenient for residents. He said it is important however, that we recognize residents so we are not paying for the disposal of other community's waste.

Jeff Greene said he is a contractor and is no longer able to dispose of materials from jobs in Portsmouth at the Public Works Facility. He requested that the City Council consider implementing a tipping fee as other communities do for contractors that do business in the City to dispose of their waste at the Public Works Facility.

Peter Bresciano spoke in favor of the ordinance. He expressed concern for the need of a definition of solid waste. He requested that the residents be made aware of the savings to the City by the implementation of this ordinance.

Michal Twine spoke in support of the ordinance and its passage. She said that Silke does a great job and is always educating residents on recycling and its benefits.

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

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

- A. Acceptance of Grant from the Office of the Attorney General for protective equipment for officers under the Domestic Preparedness Equipment Program

Police Chief Russ said that this grant is from the Homeland Security Act and will provide the department with protective equipment in the case of a biological release. He said that this grant does not require matching funds from the city.

Assistant Mayor Hanson moved to approve and accept the grant award to the Portsmouth Police Department as listed. Seconded by Councilor Marconi and voted.

- B. Acceptance of Grant from the Fuller Foundation for the Explorer Program

Assistant Mayor Hanson moved to approve and accept the grant award to the Portsmouth Police Department as listed. Seconded by Councilor Grasso and voted.

- C. Acceptance of Donations for the Honor Guard Program

Councilor Grasso moved to accept the donations to the Portsmouth Police Department Honor Guard Program. Seconded by Councilor Pantelakos and voted.

D. Acceptance of Donation for National Night Out Program

Councilor Whitehouse moved to accept the donation to the Portsmouth Police Department National Night Out Program. Seconded by Councilor Pantelakos and voted.

Mayor Sirrell passed her gavel to Assistant Mayor Hanson to chair this portion of the agenda.

**IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

- A. First reading of Ordinance amending Chapter 7, Article III, Section 7.336 – One Way Street by the addition of Sheafe Street: in a westerly direction from Chapel Street to Penhallow Street

Councilor Grasso moved to pass first reading and hold a Public Hearing and second reading at the December 16<sup>th</sup> City Council meeting. Seconded by Councilor Marconi and voted.

- B. First reading of Ordinance amending Chapter 7, Article XI, Section 7.1100 – Speed Limits by the addition of Section C: 15 MPH – Market Street (between Deer and Daniel Street); Section D: 20 MPH – Madison Street; Section E: 25 MPH – Market Street (between the intersection at Nobles Island and Deer Street; and Section G: 35 MPH Market Street (except that portion between the Nobles Island intersection and Deer Street which shall be 25 mph, see Section E and between Deer Street and Daniel which shall be 15 mph, see Section C)

Councilor Grasso moved to pass first reading and hold a Public Hearing and second reading at the December 16<sup>th</sup> City Council meeting. Seconded by Councilor St. Laurent and voted.

- C. First reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking by the addition of Aldrich Road: both sides from Sewall Road a distance of 150 feet easterly; Friend Street: easterly side of Friend Street; Marcy Street: easterly side of Marcy Street from New Castle Avenue to Holmes Court

Councilor St. Laurent moved to pass first reading and hold a Public Hearing and second reading at the December 16<sup>th</sup> City Council meeting. Seconded by Councilor Marconi and voted.

- D. Second reading of Ordinance amending Chapter 7, Article XII, Section 7.1200 – Parking for the Walking Disabled

Councilor Grasso moved to pass second reading and hold third and final reading at the December 16<sup>th</sup> City Council meeting. Seconded by Councilor Whitehouse and voted.

- E. Second reading of Ordinance amending Chapter 3, Article III, Section 3.111 – Garbage Receptacles and Chapter 8, Article I, Section 8.103 – Dumping Prohibited, and Chapter 3, Article II, Section 3.2 – Disposal of Non-Recyclable and Recyclable Materials and Chapter 14, Article I, Section 14.108 – Garbage and Rubbish Disposal be deleted in its entirety

Councilor Grasso moved to pass second reading and hold third and final reading at the December 16<sup>th</sup> City Council meeting and amend the ordinance by the addition of the phrase, “and the implementation of any monetary penalties” after the words, “business district” in the adoption provision of the ordinance as presented. Seconded by Councilor Pantelakos.

Councilor Grasso asked if we should expand the definition of solid waste in the ordinance as suggested by Peter Bresciano during the Public Hearing.

City Attorney Sullivan said that the definition listed in the ordinance is sufficient.

Councilor St. Laurent expressed concern with deleting the hauling section of the ordinance. He said it is no longer a requirement for materials to be covered while hauling loads. He suggested we amend the ordinance to add back sections 3.207 and 3.208 regarding hauling.

City Attorney Sullivan said that the hauling section was deleted because the State Law addresses the hauling and covering of loads, therefore it wasn't necessary to duplicate that within our City ordinance. He recommended passing the ordinance as it exists and after some experience with the ordinance make any necessary amendments.

Councilor Whitehouse said that something needs to be added to the ordinance to address the removal of trash receptacles within a 10 to 12 hour period after they have been picked up. He said many merchants leave their trash receptacles out on the sidewalk for a great length of time after they have been emptied.

Motion passed.

Councilor Hynes said that the ordinance defines corrugated cardboard as a recyclable however, he placed a pile of corrugated cardboard out for pick up following the requirements and it was not picked up.

City Manager Bohenko asked Silke if corrugated cardboard is being picked up as a recyclable material at this time. She responded no, however she would like to leave that in the ordinance to allow for administrative changes as necessary. City Manager Bohenko recommended deleting corrugated cardboard from the definitions in the ordinance if we are not presently picking up the materials.

Councilor Grasso moved to amend the ordinance by the deletion of corrugated cardboard from the definition of recyclables within Section 3.202, and delete #4 relative to corrugated cardboard from Section 3.203 B. Seconded by Councilor Pantelakos and voted. Main motion passed as further amended.

Councilor Grasso moved to have a report back no later than the first meeting in June of 2003 on how the ordinance is working along with any recommended amendments further needed to the ordinance. Seconded by Councilor Pantelakos and voted.

- F. Third and final reading of Ordinance amending Chapter 6, Article XIII, Section 6.1308 – Prohibited Locations - Hawkers and Peddlers, deleting section 6.1318 – enforcement in its entirety and amend section 6.1316 – license suspension or revocation and hearing to hold a hearing after a vendor's license has been suspended or revoked from twenty-four (24) hours to seven (7) calendar days

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

Assistant Mayor Hanson passed the gavel back to Mayor Sirrell.

**X. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATIONS AND PETITIONS**

- A. Letter from Martie Shea, The Seacoast Repertory Theatre, requesting permission to hold the annual Bow Street Artisan's Fair on Saturday July 19 and Sunday, July 20, 2003 from 10:00 a.m. – 5:00 p.m.

Councilor Lown moved to refer to the City Manager with power. Seconded by Councilor Marconi and voted.

- B. Letter from Lou Gargiulo, Great North Property Management, Inc, requesting permission to install a convex mirror in the city's right-of-way

Assistant Mayor Hanson moved to approve the request of Great North Property Management to place a convex mirror on Lower Daniel Street with the stipulation that an indemnification agreement be executed prior to the installation. Seconded by Councilor Marconi and voted.

- C. Letter from Peter Bresciano, Association of Portsmouth Taxpayers, requesting a zero increase for the FY 2003/2004 City Budget

Councilor Whitehouse moved to accept and place the letter on file and forward a copy to the Joint Budget Committee. Seconded by Councilor St. Laurent and voted.

- D. Letter from Joshua Cyr, President, Board of Directors Pro Portsmouth, Inc. requesting permission to hold New Years Portsmouth

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

City Manager Bohenko asked that the City Council recognize Joshua Cyr for all of his efforts and work in preparing the New Years Portsmouth event.

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

### **A. CITY MANAGER**

- 1. Request of Trustees of the Trust to Allow Total Return Method of Investing the Funds of the Josie F. Prescott Trust

City Manager Bohenko said that this matter was discussed by the City Council in their Work Session on November 25, 2002. He said the Trustees of the Trust Fund and Attorney Charles DeGrandpre answered many of the questions relative to the total return method of investing the funds of the Trust.

Councilor Pantelakos moved to authorize the Trustees of Trust to petition the courts to modify the Josie F. Prescott Trust to allow the utilization of the total return method of investing the funds of the Trust. Seconded by Councilor Grasso.

Councilor Marconi spoke against the motion. She said she couldn't support the motion because it diverts from what Josie F. Prescott outlined in her will regarding the Trust.

Councilor Lown said that times have changed a great deal and Josie Prescott could not have realized how much the trust would grow and the Trustees of the Trust Fund are doing what is necessary to keep the park running.

Councilor Whitehouse said that there should be policy that requires the Trustees of the Trust Fund to review the Trust with the City Council.

City Attorney Sullivan said any action by the Trustees is public in nature and can be reviewed by the City Council at any time. He said that the City Council could make an arrangement with the Trustees to review the Trust with the City Council, as they deem appropriate.

Councilor Hynes said that time changes everything and this change is for the betterment of Prescott Park. He said it requires more money to maintain the park now than it did in the 1930's.

Assistant Mayor Hanson commended the Trustees of the Trust Fund for bringing this matter forward. He said the corpus of the trust is not being invaded.



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

**B. MAYOR SIRRELL**

1. Appointments

Councilor Grasso moved to appoint Danny Gerstein to the Blue Ribbon Committee on Dogs. Seconded by Councilor St. Laurent and voted.

Councilor Marconi moved to appoint M. Judy Nerbonne to the Blue Ribbon Committee on Cemeteries. Seconded by Councilor Whitehouse and voted.

**C. ASSISTANT MAYOR HANSON**

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

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

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

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

**XII. MISCELLANEOUS/UNFINISHED BUSINESS**

Councilor Lown said he received a letter from Amnesty International requesting that the City Council prepare a Proclamation in observance of Human Rights Day on December 10<sup>th</sup>.

Councilor Lown moved to have a Proclamation prepared declaring December 10<sup>th</sup> as Human Rights Day. Seconded by Councilor Pantelakos.

Councilor Marconi said that she couldn't support something that she has no information on. She said that the letter should have been placed on the agenda as other communications are and not brought forward this evening. She said if Amnesty International missed the deadline for the agenda that is not the fault of the City Council.

Councilor Lown said he felt it was important and should be considered by the City Council this evening even though Amnesty International missed the City Council agenda deadline.

Motion passed with Councilor Marconi abstaining from voting.

**XIII. ADJOURNMENT**

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

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KELLI L. BARNABY, CITY CLERK