

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, NOVEMBER 17, 2003

PORTSMOUTH, NH
TIME: 7:00 PM

At 6:00 p.m., a Non-Meeting with counsel was held regarding negotiations.

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, Marconi, and St. Laurent.

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

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

PROCLAMATIONS

1. Red Hat Society

Mayor Sirrell presented a proclamation on November 15th celebrating the Red Hat Society.

2. Thanks to Sam Jarvis Day – November 26, 2003

Mayor Sirrell presented the proclamation to Sam Jarvis and declared November 26th Sam Jarvis Day.

3. Police K-9 Officers

Mayor Sirrell presented a proclamation on November 10th recognizing Police K-9 Officers.

4. Crime Stoppers

Mayor Sirrell presented the proclamation to Deb Hanson and John Lyons for Crime Stoppers.

V. ACCEPTANCE OF MINUTES – OCTOBER 20, 2003 AND NOVEMBER 6, 2003

Councilor St. Laurent moved to accept and approve the City Council minutes of the October 20, 2003 and November 6, 2003 meetings. Seconded by Councilor Marconi and voted.

VI. PUBLIC COMMENT SESSION

Richard Gamester spoke in favor of renaming Pearl Street to Martin Luther King Way.

Bob Shouse requested that the renaming of Pearl Street be determined after holding a public hearing. He is opposed to the proposal because it changes the historic value and face of the city.

Nate Holloway spoke in favor of renaming Pearl Street.

Bob Gunning said that the new library site should be at the federal building.

Margaret Britton spoke opposed to the renaming of Pearl Street. She said that it does not honor Dr. King by renaming the street and that the building is on the historic register as the Pearl Street Church. She suggested renaming Chestnut or Porter Streets. She submitted additional petitions to the City Clerk against the renaming of Pearl Street.

Marylou McElwain was concerned about her new tax bill and received no notice that there would be increases in the tax bills.

Chris Loder spoke opposed to the renaming of Pearl Street and said that there are other ways to honor Dr. King. He suggests creating a park or trail and naming it after him.

Assistant Mayor Hanson moved to suspend the rules in order to take up item XI. A.1. Seconded by Councilor Whitehouse and voted.

1. Request from the Fire Commission for Approval of Employment Agreements for Assistant and Deputy Fire Chiefs

City Manager Bohenko said that this is a request to approve Employment Agreements for the Assistant and Deputy Chiefs. He recommended that the City Council approve the agreements as submitted.

Assistant Mayor Hanson moved to approve the proposed Employment Agreements for Assistant Fire Chief Steven E. Achilles and Deputy Fire Chief Steven C. Griswold. Seconded by Councilor Pantelakos.

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

Assistant Mayor Hanson moved to suspend the rules in order to take up item XI. A.2. Seconded by Councilor Grasso and voted. Councilor Marconi abstained from voting.

2. Request for Approval of Security Agreement between the City and the Pease Development Authority

City Manager Bohenko said that the City would be reimbursed 100% for the services provided by the Police Department at the airport.

Assistant Mayor Hanson moved to approve the proposed security agreement between the City and the Pease Development Authority. Seconded by Councilor Grasso.

On a unanimous roll call vote 8-0, motion passed. Councilor Marconi abstained from voting.

VII. PUBLIC HEARING

- A. Ordinance Amending Chapter 10, Article III, Section 10.301(a)(7) – General Requirements – by the addition of the following language – No structure, building, street, driveway, road, accessory structure, boat landings or parking areas; except, those serving marine purposes and which are otherwise authorized by this Ordinance, shall be located within one hundred feet of the salt water marsh wetlands or mean high water line of North Mill Pond. For purposes of this Ordinance, this area begins at Bartlett Street and extends along the westerly edge of the North Mill to Maplewood Avenue. (Additional regulations are contained in Article VI)

Mayor Sirrell read the notice and passed the introduction to City Manager Bohenko. The City Manager said that this ordinance uses the same requirements as Sagamore Creek and Little Harbour. This amendment would create a 100' setback from the water. He advised the Council that the Planning Board unanimously approved this ordinance however amendments have been made since the first reading.

Mayor Sirrell declared the public hearing open and called for speakers.

Ed Patten spoke opposed to the ordinance as it only covers the westerly side of the North Mill Pond. He said the ordinance should apply to the entire area.

Nancy Johnson spoke in favor of the ordinance and feels that the entire North Mill Pond should be part of the ordinance.

Peter Bresciano said that the entire North Mill Pond should be part of the ordinance.

Dave Burdick spoke in support of the ordinance, as it will protect the pond.

Steve Miller spoke in support of the ordinance because the pond needs to be protected.

Adolph Berounsky spoke against the ordinance as the issues discussed should be covered in the wetlands ordinance. City Attorney Sullivan responded that the wetlands ordinance does not cover tidal wetlands as this proposed ordinance covers.

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

Mayor Sirrell requested Planning Director Holden to discuss the proposed ordinance. Director Holden said that this ordinance comes from the study circle because of environmental concerns. He said it deals with the westerly side because that is where development could take place. He noted that the easterly side is industrial and is covered by federal regulations. He said other areas are being considered under the master plan process.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. New Hampshire Department of Environmental Services - \$4,000.00

Councilor Grasso moved to authorize the City Manager to accept and expend \$4,000 in grant funds from the Department of Environmental Services 2003 Local Source Water Protection Grant Program for Groundwater Well Security. Seconded by Councilor Pantelakos.

Councilor Whitehouse said that this money would be used for the Smith well. City Manager Bohenko added that the funds would be used to install a fence around the well.

Motion passed.

B. Police Department Grants/Donations:

- Internet Crimes Against Children Grant - \$400,000.00
- COPS Homeland Security Overtime Program Grant - \$45,452.00
- Operation Streetsweeper Funding for Special Investigations Unit Grant - \$107,686.00
- Donations from VSI, LLC at Harbour Place and Regal Limousine Service for the Portsmouth Police Honor Guard - \$1,000.00 and \$100.00
- Donation from Wal-Mart for the Family Services Division - \$1,500.00

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

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second reading Chapter 10, Article III, Section 10.301(a)(7) – General Requirements – by the addition of the following language – No structure, building, street, driveway, road, accessory structure, boat landings or parking areas; except, those serving marine purposes and which are otherwise authorized by this Ordinance, shall be located within one hundred feet of the salt water marsh wetlands or mean high water line of North Mill Pond. For purposes of this Ordinance, this area begins at Bartlett Street and extends along the westerly edge of the North Mill to Maplewood Avenue. (Additional regulations are contained in Article VI)

Assistant Mayor Hanson moved that Chapter 10, Article III, Section 10-301 (A) (7) of the City's Zoning Ordinance be amended as recommended by the Planning Board as shown in Exhibit I attached to the Planning Board's memorandum dated November 7, 2003 and to hold third and final reading at the December 1, 2003 City Council meeting. Seconded by Councilor Grasso.

Councilor Whitehouse asked about Hodgdon Brook and how it flows into the pond. City Attorney Sullivan said that it does not matter because of the 100' setback with inland wetlands. He said that this is a first step to including all the tidal areas in the City as it is important for area preservation.

City Manager Bohenko recommended approval of this ordinance and other areas could be addressed during the master plan process.

Councilor Whitehouse questioned Director Holden if the Planning Board was concerned where the fresh water starts and ends. Director Holden said that the ordinance defines an area.

Councilor Marconi said she would vote opposed because it sets precedence.

Motion passed with Councilor Marconi voting opposed.

- B. Third and final reading of Ordinance amending Chapter 7, Article III, Section 7.336 – One Way Streets

Councilor Whitehouse moved to pass third and final reading of amended ordinance, as submitted. Seconded by Councilor St. Laurent and voted.

X. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATIONS AND PETITIONS

- A. Letter from Robert Sutherland, The First Masonic District, requesting permission to hold a 5K Road Race on Saturday, April 24, 2004 at 9:00 a.m.

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

- B. Letter from Pawn Nitichan, City Year New Hampshire, requesting permission to hold the third annual “Martin Luther King Day March of Justice” on Monday, January 19, 2004

Councilor Lown move to refer to the City Manager with power. Seconded by Councilor Hynes and voted.

- C. Letter from Gary Dodds regarding recommendations for improvements to the intersection of Cutts Street and Maplewood Avenue

Assistant Mayor Hanson moved to refer to the Traffic and Safety Committee. Seconded by Councilor Grasso.

Councilor Lown advised Mr. Dodds that he would be able to make a presentation to the Traffic and Safety Committee.

Councilor Marconi said that this is a dangerous intersection.

Assistant Mayor Hanson noted that the item would be placed on the January agenda for Traffic and Safety Committee. He advised Mr. Dodds that it is a state road.

Motion passed.

- D. Letter from Attorney Peter Loughlin regarding donation of land on Pine Island off Borthwick Avenue

Mayor Sirrell passed her gavel to Assistant Mayor Hanson. Mayor Sirrell said that she has been working with Clotilde Straus since 1980 on this matter. She said that this area has been sitting in limbo until this letter was brought forward.

Mayor Sirrell moved to refer the letter from Peter Loughlin dated November 12, 2003 to the Planning Board for a report back at the December 1, 2003 City Council meeting. Seconded by Councilor St. Laurent and voted.

Assistant Mayor Hanson passed the gavel back to Mayor Sirrell.

- E. Letter from Steven McHenry, McHenry Architecture, requesting permission to build a custom metal egress stair at 51 Ceres Street

Assistant Mayor Hanson moved to refer to the Planning Board for a report back. Seconded by Councilor St. Laurent.

Assistant Mayor Hanson said that a license agreement would need to be signed in order for stairs to be placed on City property. He suggested that the owner provide a small donation for the upkeep of the pocket park in the area.

Motion passed with Councilor Lown abstaining.

- F. Letter from Maureen Nage, National Multiple Sclerosis Society, requesting permission to hold the annual MS Walk on Saturday, May 8, 2004

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

- G. Letter from Dee Martin, American Lung Association, requesting permission to hold the 19th annual Clean Air Challenge Seacoast Bike Tour on Saturday, May 15, 2004 and Sunday, May 16, 2004

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

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

- 3. Proposed 2004 Schedule of City Council Meetings and Work Sessions

Councilor Grasso moved to adopt the schedule of City Council meetings and work sessions for 2004 and amend the Police Department budget work session from May 5th to May 6th. Seconded by Councilor Pantelakos and voted.

- 4. Report Back Regarding Proposal to Rename a Street after Dr. Martin Luther King, Jr.

Councilor Pantelakos moved to establish a public hearing at the January 26, 2004 City Council meeting regarding the renaming of Pearl Street to Martin Luther King, Jr. Way. Seconded by Councilor Marconi and voted.

Assistant Mayor Hanson requested that the residents of Pearl Street be notified of the public hearing.

- 5. Report Back Regarding Veterans' Tax Exemption

City Manager Bohenko requested that the City Attorney discuss his legal opinion on City

Councilor's voting on this matter. City Attorney Sullivan said it was a concern that many City Councilor's would have a conflict of interest. He provided a detailed opinion in his memorandum.

City Manager Bohenko said based on the legal opinion this matter should be acted on by the new City Council. He advised that the Council that every \$50.00 increase would impact the tax rate by \$0.02.

Councilor Hynes moved to table this matter until the January 26, 2004 City Council meeting for consideration. Seconded by Councilor Pantelakos.

Assistant Mayor Hanson requested the City Attorney to provide a report back on entitlement of exemption for taxpayers with irrevocable trusts. Councilor Grasso also requested that the report include the eligibility of two or more veterans living in the same home.

Motion passed.

6. Acceptance of Conservation Easement

Councilor St. Laurent moved to accept the Conservation Easement Deed from Michael Iafolla to be recorded in the Rockingham County Registry of Deeds at Book 4038, Page 2040. Seconded by Councilor Whitehouse and voted.

7. Meter Enforcement – 2003 Holiday Season

Councilor Pantelakos moved to authorize the Parking and Transportation Department to forego meter enforcement in the downtown area from Saturday, December 13th through Thursday, December 25th, with the stipulation that the 15-minute, two-hour, and four-hour limits will be enforced. Seconded by Councilor Marconi and voted.

8. Polling Hours for January 27, 2004 Presidential Primary

Councilor Hynes moved to set the polling hours from 8:00 a.m. – 7:00 p.m. for the January 27, 2004 Presidential Primary Election. Seconded by Councilor Marconi and voted.

Informational Item 2 – Proposed Work Session Regarding Library Project Update – 106
Historical Review

City Manager Bohenko advised the City Council that Mayor Sirrell has requested that the Council receive an update on the new library project during the December 8th Work Session.

Councilor Whitehouse asked if an update could be received for the land survey of the Peirce Estate. City Manager Bohenko said that he would like to focus on the 106 process and was concerned about time constraints.

B. MAYOR SIRRELL

1. Donations to the Coalition Legal Fund

Mayor Sirrell passed the gavel to Assistant Mayor Hanson.

Mayor Sirrell moved to accept the \$2,000 contribution from the Town of Greenland, \$1,000 contribution from the Town of Stoddard and \$10,000 contribution from the Town of Hampton to be placed in the Coalition Legal Fund. Seconded by Councilor St. Laurent and voted.

1A. Donation from Northern Utilities (not on agenda)

Mayor Sirrell moved to accept the \$10,000.00 donation from Northern Utilities for improvements to the Maple Haven playground. Seconded by Councilor St. Laurent and voted.

Assistant Mayor Hanson passed the gavel back to Mayor Sirrell.

2. Appointments

The following were considered Betty Sanford, Taxi Commission; Dana Levenson and Suzanne Foley, Library Trustees; Jane Sweeney and June Rogers, Cemetery Committee; Eva Powers, Conservation Commission; and Kenneth Smith, Planning Board.

Councilor Whitehouse moved to reappoint Peter Bresciano to the Taxi Commission until December 31, 2005. Seconded by Councilor St. Laurent and voted.

Councilor Hynes moved to reappoint Steve Miller to the Conservation Commission until April 1, 2005. Seconded by Councilor Grasso and voted.

Councilor Grasso moved appoint Eric Gustafson to the Recycling Committee. Seconded by Councilor St. Laurent and voted.

Councilor St. Laurent moved to reappoint Carol Hollis to the Recycling Committee. Seconded by Councilor Grasso and voted.

Councilor Grasso moved to appoint Michael Twine to the Recycling Committee. Seconded by Councilor St. Laurent and voted.

Councilor Marconi moved to appoint Geoffrey Lombard to the Cemetery Committee. Seconded by Councilor St. Laurent and voted.

Councilor Marconi moved to appoint Elizabeth Wright to the Cemetery Committee. Seconded by Councilor St. Laurent and voted.

Councilor St. Laurent moved to reappoint George Savramis to the Planning Board until December 31, 2006. Seconded by Councilor Grasso and voted.

3. Reports

Mayor Sirrell announced that Stoodley's Tavern at Strawberry Banke Museum is holding a wine and cheese reception on Tuesday, November 18th.

Mayor Sirrell announced that The Metro Restaurant is holding a free Pre-Thanksgiving Holiday Meal on Wednesday, November 26th.

Mayor Sirrell announced that the Urban Forestry Center is holding the Festival of Trees on Friday, November 21st from 4:00 p.m. – 8:00 p.m., Saturday, November 22nd from 1:00 p.m. – 8:00 p.m., and Sunday, November 23rd from 1:00 p.m. – 8:00 p.m.

C. ASSISTANT MAYOR HANSON

1. Traffic & Safety Committee Action Sheet and Minutes of the October 24, 2003 meeting

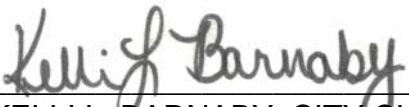
Assistant Mayor Hanson moved to accept and approve the Traffic & Safety Committee action sheet and minutes of the October 24, 2003 meeting. Seconded by Councilor Marconi and voted.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Grasso reminded people that the high school is continuing to sell their auditorium seats at a cost of \$200.00.

XIII. ADJOURNMENT

At 9:10 p.m., Councilor Whitehouse moved to adjourn, seconded and voted.



KELLI L. BARNABY, CITY CLERK