

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
MONDAY, MAY 3, 2004

PORTSMOUTH, NH  
TIME 7:00 PM

At 6:00 p.m., a non-meeting with Counsel was held.

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

Mayor Sirrell called the meeting to order at 7:10 p.m.

### **II. ROLL CALL**

Present: Mayor Sirrell, Assistant Mayor Hanson, Councilors Grasso, Ferrini, Marchand, Pantelakos, Hynes, Raynolds, and Whitehouse

### **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.

### **PROCLAMATION**

1. The Shaw Brothers 45<sup>th</sup> year in the entertainment business

Councilor Grasso read the proclamation in recognition of The Shaw Brothers 45 years in the entertainment business. Mayor Sirrell presented the proclamation to The Shaw Brothers who accepted it with gratitude.

2. National Police Week & Peace Officers' Memorial Day

Councilor Pantelakos read the proclamation declaring May 9, 2004 – May 15, 2004 as National Police Week as well as declaring May 15, 2004 as Peace Officers' Memorial Day. Mayor Sirrell presented the proclamation to Police Chief Magnant who accepted it with gratitude.

### **V. ACCEPTANCE OF MINUTES – APRIL 12, 2004**

Assistant Mayor Hanson moved to accept and approve the City Council minutes of the April 12, 2004 meeting. Seconded by Councilor Pantelakos and voted.

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

Bill St. Laurent expressed concern with the recommendation of City Manager Bohenko to raise parking fines and meter rates in order to keep the tax rate down.

Harold Ecker spoke against the demolition of the JFK building. He said that the library should be built at the McIntyre building.

Bob Hassold said that there needs to be improvements to the cleanliness of the downtown area. He said there was a public works crew that was assigned to cleaning the downtown area in the past and it made a tremendous difference. He suggested bringing the crew back.

Larry Trager, Belle Peppers, spoke against mobile vendors in the city. He said that the vendors pay a minimal fee to operate and they are taking business away from the downtown merchants that pay large fees to operate downtown.

Dennis Bobilya spoke against the adverse effects of the Wholey Way development on the Echo Hill condominiums. He said that there is significant water run off onto the condominiums.

Linda Harvey said that she has a number of concerns regarding the impact of the Wholey Way development on the Echo Hill condominiums. She thanked the city for looking into the issues raised by the property owners.

## **VII. PUBLIC HEARING**

- A. ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.330 – NO PARKING – HANCOCK STREET: NORTHERLY SIDE OF HANCOCK STREET FROM MARCY STREET A DISTANCE OF 115 FEET

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

Assistant Mayor Hanson said that the no parking has been posted for a number of years, however it was never part of the ordinance book. Former Police Chief Burke evoked his emergency powers and created the no parking area but an ordinance was never prepared and placed in the ordinance book.

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

## **VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

- A. First reading of Ordinance amending Chapter 7, Article III, Section 7.327 – Limited Parking – Two Hours – Washington Street: northerly side between State Street and Court Street

Assistant Mayor Hanson moved to pass first reading of amended ordinance, as submitted, and schedule a public hearing and second reading at the May 17, 2004 City Council meeting. Seconded by Councilor Whitehouse and voted.

- B. Second reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Hancock Street: northerly side of Hancock Street from Marcy Street a distance of 115 feet

Assistant Mayor Hanson moved to pass second reading of the amended ordinance, as submitted and hold a third and final reading at the May 17, 2004 City Council meeting. Seconded by Councilor Pantelakos and voted.

**IX. APPROVAL OF GRANTS AND DONATIONS**

- A. Acceptance of Donation to City Cultural Commission (a/k/a Art-Speak) from Art's Rochester in the amount of \$500.00

Councilor Grasso moved to accept the \$500 contribution from Art's Rochester to be placed in the City Cultural Commission budget. Seconded by Councilor Ferrini and voted.

- B. Acceptance of Community Development Block Grant from the U.S. Housing and Urban Development in the amount of \$789,000.00

Councilor Hynes moved to accept a Community Development Block Grant (CDBG) in the amount of \$789,000 from the U.S. Department of Housing and Urban Development. Seconded by Councilor Whitehouse.

City Manager Bohenko recognized Karen Jacoby who has been employed by the city for 15 years in the Community Development Department and she has chosen to pursue a new career. He wished Karen well and thanked her for her years of service to the city. Motion passed.

- C. Acceptance of Donation from Robert & Nackey Scagliotti in the amount of \$1,000.00 for the Pleasant Street Cemetery

Councilor Grasso moved to accept the \$1,000 donation from Robert and Nackey Scagliotti to be utilized for the Pleasant Street Cemetery. Seconded by Councilor Hynes and voted.

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

- A. Renewal Requests for Sidewalk Obstruction Licenses from the following businesses with no changes from last year:
- Starbucks Coffee – 4 tables and 8 chairs
  - The One Hundred Restaurant – 1 A-frame sign
  - Portsmouth Provisions – 1 A-frame sign

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

- B. Request for Sidewalk Obstruction License from Helen Marks, Spiritual Reading by Duchess, to place 1 A-frame sign in front of establishment

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

- C. Request for Sidewalk Obstruction License from Michelle Luzuaway, Saucygrace, to place 1 A-frame sign in front of establishment

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

- D. Request for Sidewalk Obstruction License from Angelica Guimond, Bliss by the Sea Salon, to place 1 A-frame sign in front of establishment

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

- E. Request for Sidewalk Obstruction License from Jay Friedlander, O'Naturals, to place 1 additional A-frame sign at second entrance to building (*Currently have a license for 1 A-frame sign at other entrance*)

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

- F. Letter from Larry Trager regarding policy for mobile food vendors

Councilor Grasso moved to refer to the Vendors Committee for a report back as soon as possible. Seconded by Councilor Pantelakos.

Councilor Pantelakos said that we should not have vendors in the city and years ago she tried to raise the fee to \$500 or \$1,000 for a license and the City Council voted against the request.

Assistant Mayor Hanson said that the Vendors Committee should receive input from the downtown merchants on their feelings regarding vendors in the city.

Motion passed.

- G. Letter from Mario Giberti requesting to purchase city owned land on Barberry Lane

Assistant Mayor Hanson moved to refer to the Planning Board for a report back. Seconded by Councilor Grasso and voted.

- H. Letter from Janice Mellian, Portsmouth Garden Club, requesting to be involved in planning the garden at the new library

Councilor Grasso moved to refer to the Library Director and the Library Building Committee. Seconded by Councilor Hynes and voted.

- I. Letter from Carl Walton requesting the City Council participation in the Memorial Day Parade and Services on Monday, May 31, 2004

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

- J. Letter from John Donohoe requesting upgrades to the basketball courts at the Lafayette Playground

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

- K. Letter from Robert and Mary Lou McElwain requesting that the City Council establish term limits for Boards and Commissions
- L. Letter from Anthony Coviello regarding the length of time members serve on Boards and Commissions

City Attorney Sullivan advised the City Council that each board and commission will need to be looked at individually in terms of establishing term limits. He said it might involve amending ordinances or the City Charter. He said in regards to establishing term limits for the Historic District Commission the matter should be considered by the Planning Board.

Councilor Ferrini moved to refer the issue of establishing terms limits for the Historic District Commission to the Planning Board for a report back. Seconded by Councilor Pantelakos.

Councilor Ferrini said he is not in favor of term limits but is in favor of new blood. Councilor Hynes said the judgement of the City Council determines whether a member of a board or commission has served the city well and if they will be reappointed. Councilor Raynolds said that the issues raised are legitimate and the Council should give this issue proper consideration. Councilor Whitehouse said experience is important on land regulator boards.

Assistant Mayor Hanson moved to amend the motion to place the letter on file. Seconded by Councilor Grasso.

Councilor Pantelakos suggested creating a sub-committee on this matter.

City Manager Bohenko said that this issue should not be referred to the Planning Board it should remain with the City Council.

Councilor Ferrini withdrew his motion and Councilor Pantelakos withdrew her second to the motion.

Councilor Pantelakos moved to hold a public hearing in the future on this matter. Seconded by Councilor Ferrini. On a unanimous roll call vote 9-0, motion passed.

Councilor Marchand introduced a delegation from Macedonia that is here under a program called Partners for Peace – New Hampshire 2004 to attend workshops dealing with emergency planning and coordination in the event of a natural disaster.

- M. Letter from Police Chief Magnant requesting that the City Hall flag be flown at half-staff in recognition of Peace Officers Memorial Day on Saturday, May 15, 2004

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

- N. Letter from Attorney Malcolm McNeill regarding proposed rezoning of the Portsmouth Circle Business Center

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

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

### **A. CITY MANAGER**

1. Request for Approval of Pole License Agreements #63-404 and #63-405

Assistant Mayor Hanson moved to approve the request of PSNH for both pole license agreements #63-404 and #63-405 as recommended by the Public Works Department. Seconded by Councilor Pantelakos and voted.

2. Proposed Peirce Estate Recreational and Environmental Charitable Trust

City Manager Bohenko said that he is looking for the City Council to authorize him to proceed with the Peirce Estate Recreational and Environmental Charitable Trust.

Councilor Pantelakos moved to authorize the City Manager to execute the Peirce Estate Recreational and Environmental Charitable Trust. Seconded by Councilor Hynes.

Councilor Grasso said that the new library would be built on city owned land. She said the incursion that occurred years ago at the Middle School needs to be dealt with whether or not the library is built at the JFK location.

City Attorney Sullivan said that the Trustees of the Trust Fund would hold the Charitable Trust. He advised the City Council that an outside appraiser would be hired to place values on the incursion then the money would be placed in the trust.

Councilor Hynes asked if we could pay the money from the incursions over a period of years. City Attorney Sullivan said that would need to be approved by the Attorney General's Office.

Councilor Whitehouse spoke against the motion. He advised the City Council that he has a file regarding the addition to the Middle School gymnasium when the incursion occurred that he would like to speak to with the City Council.

City Manager Bohenko said that the incursion needs to be resolved and if we do nothing the Attorney General could require that a portion of the school gymnasium and parking lot be demolished.

Assistant Mayor Hanson asked that Councilor Whitehouse turn over his file to the City Attorney and City Manager for their review. He said if something in the file changes things a report back to the City Council should take place. Councilor Whitehouse turned his file over the City Attorney and asked that the file be returned to him after it has been reviewed.

On a roll call vote 8-1, motion passed with Councilor Whitehouse voting opposed.

3. Proposed License Agreement Re: Cianbro Corporation

City Manager Bohenko recommended approval of the license agreement.

Councilor Hynes moved to authorize the City Manager to enter into this license agreement with Cianbro Corporation as presented. Seconded by Councilor Ferrini and voted.

4. Proposed Amendment to the 1995 Zoning Ordinance Requiring Nonresidential Uses in Ground Floor Areas within the Central Business A and B Districts

City Manager Bohenko said he would like to bring back the first reading of the ordinance amendment of recommendations gathered by study circles and the Planning through the master plan process.

Assistant Mayor Hanson moved to hold a work session on this matter before first reading is held. Seconded by Councilor Grasso.

City Manager Bohenko recommended holding a joint work session with the Planning Board on June 14, 2004 to discuss the master plan process and this recommended amendment.

Councilor Ferrini moved to amend the motion to authorize the City Manager to bring back on May 17, 2004 a proposed first reading to amend the 1995 Zoning Ordinance to address the concerns outlined as a result of the master plan process and to hold a joint work session with the Planning Board on June 14, 2004 to discuss the master plan process. Seconded by Councilor Pantelakos.

On a roll call vote 6-3, motion passed. Councilors Ferrini, Marchand, Pantelakos, Hynes, Reynolds and Mayor Sirrell voted in favor. Assistant Mayor Hanson, Councilors Grasso and Whitehouse voted opposed.

Assistant Mayor Hanson requested that a synopsis showing the differences between the ordinance recommended two years ago regarding nonresidential uses to the ordinance discussed this evening.

5. Request for Approval of Proposed Easements

- Tyroch Realty – Easement

City Manager Bohenko recommended approval of the easement as submitted.

Councilor Pantelakos moved to authorize the City Manager to accept an easement from Tyroch Realty for sidewalk and utilities. Seconded by Councilor Whitehouse and voted.

- Ocean National Bank – Easement

Councilor Grasso moved to authorize the City Manager to accept an easement from Ocean National Bank for sidewalks. Seconded by Councilor Pantelakos and voted. Assistant Mayor Hanson abstained from voting.

Mayor Sirrell suggested changing the date of the May 20, 2004 Final Budget Review work session. She informed the Council that she would be late for the May 12, 2004 Municipal Budget work session and that Assistant Mayor Hanson would chair the meeting for her. City Manager Bohenko said he will cancel the May 20, 2004 work session and reschedule it if needed for another time.

**B. MAYOR SIRRELL**

1. Appointments/Resignation from the Cemeteries Blue Ribbon Committee

The City Council considered the appointment of Jeffrey Levine to the Peirce Island Committee. This appointment will be voted on at the May 17, 2004 City Council meeting.

Mayor Sirrell announced that she has received a letter of resignation from Robert and Nackey Scagliotti from the Blue Ribbon Committee on Cemeteries. Councilor Whitehouse moved to accept with regret the resignation of Robert and Nackey Scagliotti from the Blue Ribbon Committee on Cemeteries. Seconded by Councilor Pantelakos and voted.

2. Correspondence Policy

Mayor Sirrell said that she has instituted a new policy effective today relative to acceptance of correspondence. She said no mail would be accepted by the Mayor's Office without proper identification.

**C. ASSISTANT MAYOR HANSON**

1. Traffic & Safety Committee Action Sheet and Minutes of the April 15, 2004 meeting

Assistant Mayor Hanson moved to accept and approve the Traffic & Safety Committee action sheet and minutes of the April 15, 2004 meeting. Seconded by Councilor Grasso and voted.

2. Parking Committee Action Sheet and Minutes of the April 15, 2004 meeting

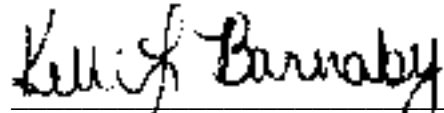
Assistant Mayor Hanson moved to accept and approve the Parking Committee action sheet and minutes of the April 15, 2004 meeting. Seconded by Councilor Pantelakos and voted.

**XII. MISCELLANEOUS/UNFINISHED BUSINESS**

Councilor Marchand announced that the Police Department offers a service where they check infant car seats to ensure that they are properly installed in vehicles. He said that he recently took advantage of this service and recommends that other parents do as well.

**XIII. ADJOURNMENT**

At 9:10 p.m., Councilor Pantelakos moved to adjourn. Seconded and voted.



KELLI L. BARNABY, CITY CLERK