

CITY COUNCIL MEETING

August 2, 2004 - 7:00 p.m.
Municipal Complex

Council Chamber
Portsmouth, N.H.

Non Meeting: At 6:15 p.m., a non-meeting was held regarding personnel matters, as per New Hampshire RSA 91-A: 2, I (b-c).

I. CALL TO ORDER

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

II. ROLL CALL

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

III. INVOCATION

Mayor Sirrell asked for a moment of silent prayer in memory of Dorothy Vaughn.

IV. PLEDGE OF ALLEGIANCE

Councilor Whitehouse led in the Pledge of Allegiance to the flag.

V. ACCEPTANCE OF MINUTES – JULY 12, 2004

Assistant Mayor Hanson moved to accept and approve the minutes of the July 12, 2004 City Council meeting. Councilor Pantelakos seconded the motion, voted all in favor.

VI. PUBLIC COMMENT SESSION

Harold Ecker explained his concern with City Council Rules and Orders #43. He felt that regardless of the number of speakers that everyone should receive three minutes to speak. Mayor Sirrell explained that the City Council rules only allow 30 minutes for the session.

Rachel Hamilton was concerned regarding the proposed permanent fence at the JFK site and the potential loss of parking with the erection of the fence.

Diane Tefft was concerned regarding the proposed fence at the JFK site. She was also concerned with the location of the library at the site. Further, she was concerned with losing the residential parking from that parking site and the impact on the residents.

Jeffrey Cooper explained that he has heard many rumors regarding the Peirce Island Trust and wanted to receive clarification. Mayor Sirrell advised him the best approach to take to receive answers to his questions.

Karen Dutcher expressed concern with a chain link fence around the JFK site. She also was concerned with the lack of residential parking, emergency access on Richards Avenue, and felt more consideration is needed for the neighborhood.

Seth Hill questioned if there is an architectural design for the permanent fence around the JFK site.

Christine Duffy discussed the lease of property behind her house and proposed a gate in the fence for access. She also questioned why there is a rush to fence in the property at the JFK site.

Robert Warner questioned if the fence at the JFK site is for safety issues. He suggested that if the fence is to mark boundaries then why not use tape and boundary markers. He does not see any safety concerns in the building area.

Mayor Sirrell announced that the JFK fence issue would be discussed in the City Manager's comments of the agenda.

VII. PUBLIC HEARING

- A. PROPOSED RELOCATION OF FIRE DEPARTMENT MONUMENT FROM STATION 2 LOCATED AT LAFAYETTE ROAD TO STATION 1 LOCATED ON COURT STREET

Mayor Sirrell read the legal notice and explained that Peter Happny addressed the concerns with moving the monument. His concern was that the monument may be damaged during transit. Mayor Sirrell recommended that Fire Department Station 1 work with Art Speak and other interests to erect a new monument at Station 1.

Mayor Sirrell opened the public hearing and called for speakers. With no speakers the public hearing was declared closed.

VIII. APPROVAL OF GRANTS AND DONATIONS

- A. Donation to the Portsmouth Police Honor Guard in the amount of \$500.00 from Coast Pontiac-Cadillac-GMC
- B. Donation of \$12.00 in cash from Mrs. Dorothy Farrar for the Portsmouth Police Explorers Post #609

Councilor Whitehouse moved to approve and accept the donations to the Portsmouth Police Department and Honor Guard as listed. Councilor Pantelakos seconded the motion, voted all in favor.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

1. First Reading of Ordinance Amending Chapter 10, Article II, Section 10-202 – Amendment to rezone Portsmouth Circle Business Center as General Business (GB)

Councilor Ferrini moved to pass first reading of the amended ordinance, as submitted, and schedule a Public Hearing and second reading at the August 16th City Council meeting. Councilor Grasso seconded the motion, voted all in favor.

2. Second reading of Ordinance amending Chapter 10, Article I, Section 10-102 – Definitions and Section 10-208, Table 4 regarding regulation issues on the ground floor of property in the Central Business A and B Districts and related Ordinance provisions

Assistant Mayor Hanson moved to remove the item from the table. Councilor Grasso seconded the motion, voted all in favor.

Councilor Grasso moved to table the ordinance in order for the Planning Board and City staff to submit an overlay map at the September 20th City Council meeting. Councilor Hynes seconded the motion, voted all in favor.

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Valerie Cunningham requesting the closure of a small portion of Chestnut Street and the erection of a memorial for the African Burial Ground

Mayor Sirrell passed the gavel to Assistant Mayor Hanson.

Mayor Sirrell said a Blue Ribbon Committee should be established to work out the details.

Mayor Sirrell moved to authorize the Mayor to establish a Blue Ribbon Committee on the African Burial Ground. Councilor Whitehouse seconded the motion.

Councilor Whitehouse requested a timeframe to ensure that it is answered in a reasonable amount of time.

City Manager Bohenko explained that many sources are involved and those sources need to be involved along with the community.

Councilor Hynes felt that hurrying this process is wrong because it needs to be done right. He noted it is a complicated situation and costly.

Voted all in favor.

Assistant Mayor Hanson passed the gavel back to Mayor Sirrell.

- B. Request for Sidewalk Obstruction License from Dos Amigos Burritos to place 1 bench in front of establishment

Councilor Pantelakos moved to refer to the City Manager with power. Councilor Grasso seconded the motion, voted all in favor.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

- 1. Proposed Work Session Re: Budget Process / Format for FY06

City Manager Bohenko explained that this work session is based on a request from the City Council. He explained that a Joint Budget Committee meeting would be held before the work session and that information would be provided to the Council before the work session.

Assistant Mayor Hanson moved to establish a work session on Monday, September 27th at 6:30 p.m. Councilor Pantelakos seconded the motion, voted all in favor.

- 2. Proposed Building Code Ordinance Change

City Manager Bohenko requested Chief Building Inspector Hopley to address the proposed ordinance amendment. He spoke to the three major changes and the significance as outlined in the City Manager's comments.

Councilor Grasso moved to instruct the City Manager to bring back an ordinance for first reading at the August 16th City Council meeting. Councilor Pantelakos seconded the motion, voted all in favor.

- 3. Report Back Re: Public/Private Initiatives and Graffiti Removal

City Manager Bohenko explained that a downtown business owner asked for a way to initiate ways for graffiti removal and since there are economic ramifications there should be a study on the issue.

Councilor Hynes moved to refer to the Economic Development Commission for a recommendation and report back to the City Council. Councilor Grasso seconded the motion.

Councilor Whitehouse noted that he was amazed that other initiatives did not address where the graffiti came from and punishing the violator. City Manager Bohenko responded that he could talk with the Police Chief about it.

Assistant Mayor Hanson noted that some initiatives used volunteers and believes it is a wonderful idea and that potentially the Downtown Business Association would assist if the graffiti was within reach.

Voted all in favor, motion passed.

4. Request for Approval of Pole License Agreement #63-409

Mayor Sirrell passed the gavel to Assistant Mayor Hanson.

Councilor Whitehouse moved to approve the request from Public Service of New Hampshire (PSNH) for pole license agreement 63-409 as recommended by the Public Works Department. Councilor Pantelakos seconded the motion.

Mayor Sirrell said that two people spoke with her this morning regarding the poles. She noted that she would not vote for this unless something is done. She explained the photographs received regarding the poles with issues and wants assurance that this would be resolved.

City Manager Bohenko responded that he cannot give assurance without knowing more details and specifics.

Councilor Grasso noted that on the corner of Wilson and Lafayette Road there is an old pole leaning against another pole. Councilor Grasso questioned if the City Council has the right to deny requests for pole licenses. City Attorney responded that the City Council has the option to deny.

City Manager Bohenko suggested that this pole request be approved because this pole is being moved for a city project. He requested that he be able to work together and correct these issues before denying requests.

Councilor Pantelakos noted that if a pole is dangerous then call the Public Utilities Commission as they govern poles and would contact the owner to remedy the issue.

Councilor Reynolds questioned the ramification to the city project if the request was denied. City Manager Bohenko responded that he does not have the exact details but it would result in making the request later.

Councilor Ferrini questioned if PSNH cares if the City has concerns and requested a letter be sent advising them of the concerns of the City Council.

Councilor Hynes requested the City Manager follow up to have those issues corrected and brought back for a vote.

City Manager Bohenko noted that PSNH is having problems with Verizon on moving poles and wires.

Councilor Pantelakos questioned if the City would need to repave the area if the request is denied and then approved later. City Manager Bohenko responded that he cannot answer that without further project details.

Voted all in favor, motion passed.

Assistant Mayor Hanson passed the gavel back to Mayor Sirrell.

5. Proposed Installation of NH Public Radio Repeater

City Manager Bohenko noted that the staff has reviewed this proposal with no concerns, however he felt it was important to cover all the requirements.

Councilor Grasso moved to refer to the Planning Board and the Historic District Commission for a recommendation and report back to the City Council. Councilor Pantelakos seconded the motion, voted all in favor.

6. JFK Site Fence (not on agenda)
(NOTE: Motions that passed are listed in bold)

City Manager Bohenko suggested going forward with a construction fence around the entire property and have the Traffic and Safety Committee review the proposed one way alternative to Richards Avenue. He recommended meeting with the property owners to discuss the design for an appropriate fence after the construction is complete. He noted that the construction fence would be needed before construction begins.

Councilor Pantelakos moved to erect a construction fence around the whole property and refer the issues to the Traffic and Safety for a report back. Councilor Ferrini seconded the motion.

City Manager Bohenko asked for direction as to a date to install the construction fence.

Councilor Raynolds felt that based on the concerns of the residents that the construction fence be installed as late as possible.

Councilor Whitehouse questioned if the fence would block off parking and access to the property. He felt that based on the speakers comments that there is no need to rush.

Councilor Grasso stated that as a New Library Building Committee member that ground breaking could occur in two months. She noted that school is starting soon and if there are safety concerns then the fence should be installed before school starts.

Councilor Pantelakos stated that it is a safety and liability issue to have people walk through and park on the property. She noted that the neighborhood has been offered many free services and the City is only looking to take its property back. Further, she said that the speakers should not be so upset because it is a construction site and preparations must be made. In regards to the parking issue, she stated that the residents are not leasing the parking and it is not their lot.

Councilor Marchand said that the issue is not about whether the library should or should not be built there. He suggested erecting the fence just before construction unless it is a liability for the City.

Assistant Mayor Hanson recommended that the motion be divided.

Councilor Raynolds agreed with Councilor Pantelakos regarding parking and that the residents do not have a lease for the parking spaces, however he would like to work together for a resolution.

Councilor Pantelakos recommended that a timeframe be added to the motion.

City Manager Bohenko noted that due to contracts and timeframes that the fence should be installed no later than 30 days before construction.

Assistant Mayor Hanson moved to divide the question. Councilor Pantelakos seconded the motion.

Councilor Raynolds believes residents came in good faith and that the Council needs to extend the courtesy and does not understand the 30 days noted. City Manager Bohenko noted that 30 days provides flexibility with contract issues and planning.

Councilor Ferrini asked if the 30-day notice lease issue discussed by Ms. Duffy was an issue. City Attorney Sullivan noted that at the time she referenced the record keeping was inadequate, however a letter was sent and the lease is not a concern.

Councilor Pantelakos suggested that the residents use the school lot as it is a short walk.

Assistant Mayor Hanson noted that the Traffic and Safety Committee could have an onsite walkthrough on August 17th and then vote at the August 19th meeting to report back to the City Council

Motion passes on dividing the question. Councilor Whitehouse voted opposed.

Motion passes to refer to the Traffic and Safety Committee for a report back. Councilor Whitehouse voted opposed.

Councilor Raynolds moved to amend the original motion to state: moved to erect a construction fence around the whole JFK property with the fence installed no more than 30 days before the deconstruction at the site. Councilor Pantelakos seconded the motion. Motion passes with Councilor Whitehouse voting opposed.

B. MAYOR SIRRELL

1. Appointments/Resignation from Planning Board

Consideration: The application of John Ricci to the Planning Board from alternate to full time member was considered and will be voted on at the August 16, 2004 City Council meeting.

Appointments: Councilor Whitehouse moved to appoint Lenore Weiss-Bronson to the Blue Ribbon Committee on Trees and Public Greenery. Councilor Grasso seconded the motion, voted all in favor. Councilor Grasso moved to appoint Jeffrey Landry to the Cable Commission with a term expiring April 1, 2006. Councilor Hynes seconded the motion, voted all in favor.

Resignation: Assistant Mayor Hanson moved to accept the resignation of Paige Roberts from the Planning Board and Historic District Commission with regret and deep appreciation effective August 12th. Councilor Whitehouse seconded the motion, voted all in favor.

2. Donations to the Coalition Legal Fund

Mayor Sirrell passed the gavel to Assistant Mayor Hanson.

Mayor Sirrell moved to accept the \$300 contribution from the Town of Easton, \$500 from the Town of Hebron, and \$2,500 from the Town of Hampton Falls to be placed in the Coalition Legal Fund. Councilor Pantelakos seconded the motion, voted all in favor.

Assistant Mayor Hanson passed the gavel back to Mayor Sirrell.

- ### 3. Communication received from Strafford Regional Planning Commission
- John Burke, Director of Parking & Transportation as City's Representative
 - Steve Parkinson, Public Works Director as City's Alternate
 - David Allen, Deputy Public Works Director as City's Alternate
 - David Holden, Planning Director as City's Alternate

Assistant Mayor Hanson moved to reappoint John Burke, Director of Public and Transportation as the City's representative; Steve Parkinson, Public Works Director, David Allen, Deputy Public Works Director, and David Holden, Planning Director, as the City's alternates to the Commission. Councilor Hynes seconded the motion, voted all in favor.

4. Reports

- National Night Out 2004

Mayor Sirrell reported that National Night Out is Tuesday, August 3rd and encouraged the City Councilors to make it out to as many neighborhoods as possible. Assistant Mayor Hanson noted that the event should not be used as a political event for candidates on the ballot and Mayor Sirrell agreed.

- USS Montpelier

Mayor Sirrell explained that the USS Montpelier is stationed here. She noted that there will be a field day competition on August 6th at Leary field and encouraged the Councilors to go and show their support. She also reported that they are working on the grounds in many areas and asked Councilor Grasso to work with them for involvement in the schools.

- Piscataqua Maritime Commission – Tall Ship Friendship

Mayor Sirrell reported that the Tall Ship Friendship is coming in at the port on Friday, August 13th at 5:30 p.m. and she would be presenting them with a proclamation and gifts. She suggested that the Councilors go to the event and wish them well.

C. ASSISTANT MAYOR HANSON

1. City Manager's Evaluation

Assistant Mayor Hanson read the press release of the City Manager's evaluation results.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

1. Street Closures Downtown (not on agenda)

Councilor Whitehouse reported that closing the downtown streets for the last nightly event caused problems and people were upset. He noted that the City is losing parking revenues and certain businesses are losing revenues as well. He encourages the Councilors to go and watch the events as he does to see the problems.

Councilor Raynolds felt that the merchants would know what is best for commerce and questioned who is analyzing the affects of the closures.

Assistant Mayor Hanson responded that the event turnout depends on the weather. He feels it has been very well received and thought it was a great event and the downtown area was busy.

XIII. ADJOURNMENT

Councilor Whitehouse voted to adjourn at 8:45 p.m. Councilor Pantelakos seconded the motion, voted all in favor.

Minutes taken and typed by:

B. Christopher Maxwell, Deputy City Clerk