

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, SEPTEMBER 20, 2004

PORTSMOUTH, NH
TIME: 7:00PM

At 6:15 p.m., a reception was held in the Portsmouth Room for the Little League Champions.

I. CALL TO ORDER

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

II. ROLL CALL

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

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

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

MAYOR'S AWARDS

1. Portsmouth Little League – 2004 State Champions – 9 & 10 year olds
2. Portsmouth Little League – 2004 State Champions – 11 & 12 year olds

Mayor Sirrell presented the Little League State Champions with Mayor's Awards, t-shirts and City pins for their victories.

PROCLAMATIONS

1. The Dublin Welsh Male Voice Choir

Councilor Grasso read the proclamation in recognition of the Choir. Mayor Sirrell presented the proclamation to Voices of the Heart who accepted the proclamation on behalf of the Dublin Welsh Male Voice Choir. Voice of the Heart performed a song for the City Council.

2. Alanson Sturgis – Recognition of years of service to the Conservation Commission

Councilor Ferrini read the proclamation in recognition of Alan's years of service to the Commission. Mayor Sirrell presented the proclamation to Alan who accepted it with appreciation and gratitude. Alan said the accomplishments made throughout his term were done with the assistance of the Commission.

3. Constitution Weeks – September 17, 2004 – September 23, 2004

Assistant Mayor Hanson read the proclamation declaring September 17, 2004 – September 23, 2004 as Constitution Week. Mayor Sirrell presented the proclamation to Tylenne Jousse who accepted it with thanks. Tylenne encouraged all residents to read Constitution over this week of recognition.

PRESENTATION

1. Update on the Mayor's Blue Ribbon Cemetery Committee – Audrey Bierhans

Audrey advised the Council that the work of the Committee has been successful and discussed the grants received and various fundraisers that have been held and will be taking place over the next year.

V. ACCEPTANCE OF MINUTES – AUGUST 16, 2004

Councilor Pantelakos moved to accept and approve the minutes of the August 16, 2004 City Council meeting. Seconded by Councilor Grasso and voted.

VI. PUBLIC COMMENT SESSION

Brad Lown spoke on behalf of his client in regards to the construction of a dock on Ridges Court. He said that they have worked with the Planning Board on this issue and urged the City Council to approve the recommendations of the Planning Board to grant this request.

Tom Carroll spoke in support of the containership industry coming to the port. He said the new business would help with the economic development of the City. He thanked Councilor Pantelakos for her efforts as a State Representative in getting this business at the port.

Richard Smith spoke in support of the zoning amendment regarding a downtown overlay district.

Donald Coker urged the City Council to consider strengthening the noise ordinance. He said that the noise created by some of the downtown businesses and motorcycles are effecting the quality of life for the downtown residents. He said that the Police Department needs the tools to enforce the noise ordinance with a clear way of measuring the noise levels.

Paul Harvey spoke concern with the development of housing units at the former Lafayette School. He said that the proposal would take away a quarter of the park and playground. He said that the park and playground deserves to be protected and requested the City Council to deny the request by the Portsmouth Housing Authority.

Karen Jacoby spoke in support of the proposal by the Portsmouth Housing Authority for the reuse of Lafayette School. She said that there is a need to establish affordable housing in the City and the Housing Authority has a great track record with development and others in her neighborhood share her sentiments to support this request.

VII. PUBLIC HEARINGS

- A. ORDINANCE AND ZONING MAP AMENDMENT TO CHAPTER 10, ARTICLE II, SECTION 10-202 – LOCATION TO REZONE THE PROPERTY LOCATED AT ASSESSORS MAP R-38, LOT 020 – PORTSMOUTH CIRCLE BUSINESS CENTER FROM OFFICE RESEARCH (OR) TO GENERAL BUSINESS (GB)

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

Malcolm McNeil, Attorney representing Mr. Flatley owner of the property in question provided the history of this property to the City Council. He advised the Council that this property was originally zoned general business but was changed several years ago. He said changing the zoning back to general business would make it consistent with the surrounding businesses. He asked the City Council for their support with the rezoning request.

Peter Bresciano spoke in support of the rezoning request.

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

- B. ORDINANCE AMENDING CHAPTER 12, PART II, INTERNATIONAL RESIDENTIAL CODE, 2003, SECTION R317 DWELLING UNIT SEPARATION

Mayor Sirrell read the legal notice, declared the public hearing open and called for speakers. She advised the City Council that City Clerk Barnaby has a number of letters in support of this ordinance amendment.

Rick Hopley, Building Inspector and Steve Griswold, Deputy Fire Chief, spoke in support of the request and advised the City Council that the amendment brings the ordinance in line with the former International BOCA Code. They also informed the Council that this amendment only effects townhouses and the change is an option not a mandate for contractors.

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

- C. RESOLUTION AUTHORIZING BOND ISSUE OF UP TO THREE MILLION DOLLARS (\$3,000,000.00) FOR STREET AND SIDEWALK IMPROVEMENTS

Mayor Sirrell read the legal notice, declared the public hearing open and called for speakers. She advised the City Council that City Clerk Barnaby has a number of letters/petitions in support of the Fleet Street Project.

City Manager Bohenko said a list of streets and sidewalks covered under this Resolution has been provided to the City Council and is attached to the Resolution.

Steve Parkinson, Public Works Director, discussed the selection process used in determining which streets and sidewalks will be repaired and the construction techniques used.

Mike Delacruz spoke in support of the Resolution and asked that it be expanded to include Congress Street. He said that brick sidewalks should be used for Fleet Street and the installation of historic lighting along Fleet and Congress Streets.

Ralph DiBernardo spoke in support of the Resolution and thanked the Public Works Department for their continued work. He asked that the granite curbing in Market Square be replaced or removed because there is a portion that is uneven and creates a safety hazard.

Peter Bresciano spoke in support of the Resolution. He said that this is an important issue and the Council Chambers should have been filled with residents speaking to the issue.

Sherry Garrity asked if there is a timeframe of what streets will be repaired first and what time of year the work is done. She asked how much is spent for brick sidewalks in the historic district, as opposed to concrete in other areas of the City.

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

D. RESOLUTION FOR A LEASE AUTHORIZATION FOR FIRE APPARATUS IN THE AMOUNT OF FIVE HUNDRED AND SEVENTY-FIVE THOUSAND DOLLARS (\$575,000.00)

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

Fire Chief LeClaire provided a brief presentation on the apparatus replacement proposal. He advised the City Council that the proposed ladder truck could be set in the small areas of the City. He discussed the various features of the truck and asked for the support of the Council.

Peter Bresciano spoke to placing the old truck into reserve and said he hopes a few years down the road we are not back here asking to replace that truck.

Fire Chief LeClaire said that the truck being placed in reserve is scheduled to be replaced several years from now and has been identified in the capital improvement plan.

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

At 8:40 p.m., Mayor Sirrell declared a brief recess. Mayor Sirrell called the meeting back to order at 8:55 p.m.

VIII. APPROVAL OF GRANTS/ DONATIONS

A. Acceptance of 2004 LLEBG Technology Grant in the amount of \$10,285.00 to the Portsmouth Police Department

Councilor Pantelakos moved to approve and accept the grant to the Portsmouth Police Department as listed. Seconded by Councilor Hynes and voted.

- B. Acceptance of Donation from Mr. & Mrs. Ronald Demo to the Portsmouth Honor Guard in the amount of \$50.00

Councilor Hynes moved to approve and accept the donation to the Portsmouth Police Department as listed. Seconded by Councilor Pantelakos and voted.

- C. Acceptance of Donation for Maple Haven Park/Playground improvements in the amount of \$1,055.00

Councilor Grasso moved to accept a donation in the amount of \$1,055.00 from Maple Haven neighborhood residents to be used for the Maple Haven Park/Playground Improvement project. Seconded by Councilor Ferrini and voted.

- D. Acceptance of New Hampshire Department of Environmental Services Grant

Councilor Pantelakos moved to authorize the City Manager to accept funds up to \$15,590.00 from New Hampshire Department of Environmental Services, enter into a contract with the New Hampshire Department of Environmental Services, and authorize the City Manager to execute any documents which may be necessary for this contract. Seconded by Councilor Hynes and voted.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance amending Chapter 7, Article I – Parking Meters, various sections, Article IV – Off-Street Parking Areas; Article III – Traffic Ordinance, various sections; Article IX – Penalties, Forfeitures and Separability; and Article X – Towing , various sections

Councilor Whitehouse moved to pass first reading of amended ordinance, as submitted, and schedule a Public Hearing and second reading at the October 4th City Council meeting. Seconded by Councilor Pantelakos and voted.

- B. Second reading of Ordinance and Zoning Map amendment to Chapter 10, Article II, Section 10-202 – Location to rezone the property located at Assessors Map R-38, Lot 020 – Portsmouth Circle Business Center from Office Research (OR) to General Business (GB)

Assistant Mayor Hanson moved to pass second reading of amended ordinance, as submitted, and hold third and final reading at the October 4th City Council meeting. Seconded by Councilor Hynes and voted.

- C. Second reading of Ordinance amending Chapter 12, Part II, International Residential Code, 2003, Section R317 Dwelling Unit Separation

Councilor Grasso moved to pass second reading of amended ordinance, as submitted, and hold third and final reading at the October 4th City Council meeting. Seconded by Councilor Reynolds and voted.

D. Adoption of Resolution Authorizing Bond Issue of up to Three Million Dollars (\$3,000,000.00) for Street and Sidewalk Improvements

Assistant Mayor Hanson moved to adopt the Resolution and authorize bonding in the amount of \$3,000,000.00 for street and sidewalk improvements. Seconded by Councilor Grasso.

Councilor Whitehouse expressed concern about bonding any more projects at this time. He asked City Manager Bohenko if we could find these funds through additional revenues rather than bonding the projects.

City Manager Bohenko spoke to the City's debt service and how we have the capacity to bond far beyond what we are asking. He said that we keep our bonding between 8 and 10 percent of the total budget.

Councilor Raynolds inquired about the suggested improvements to Fleet Street by Mr. Delacruz. City Manager Bohenko said that we would consider the comments made by Mr. Delacruz.

Councilor Grasso spoke in support of the Resolution and the need to stay on track with the maintenance of the streets and sidewalks.

Assistant Mayor Hanson said if we put these projects off it would increase the cost.

On a unanimous roll call 9-0, voted to adopt the Resolution and authorize bonding in the amount of \$3,000,000.00 for street and sidewalk improvements.

E. Adoption of Resolution for a Lease Authorization for Fire Apparatus in the amount of Five Hundred and Seventy-Five Thousand Dollars (\$575,000.00)

Assistant Mayor Hanson moved to adopt the Resolution for replacement to Fire Engine 5 for lease of a 75' aerial ladder in an amount not to exceed \$575,000.00. Seconded by Councilor Pantelakos.

City Manager Bohenko said that we would own this vehicle and the word lease is terminology for municipal finance.

Motion passed.

X. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATIONS AND PETITIONS

A. Letter from Portsmouth Halloween Parade Committee requesting permission to hold the 10th annual Halloween Parade on Sunday night October 31, 2004 from 6:30 p.m. – 8:30 p.m.

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

- B. Letter from Zhana Morris, The Music Hall, regarding annual request for parking meter bags for The Music Hall's 2004-2005 Season

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

- C. Sidewalk Obstruction License Approval – The Banks Gallery, LLC, 1 A-frame sign

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

- D. Letter from Christie Clifford-Salema, Cystic Fibrosis Foundation, requesting permission to hold the Annual Great Strides Walk on Saturday, May 21, 2005

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

- E. Letter from Devin West requesting a Coast Trolley stop directly across from the main entrance of Feaster Apartments

Assistant Mayor Hanson moved to refer to the Traffic & Safety Committee. Seconded by Councilor Pantelakos and voted.

- F. Letter from Mark Bodi requesting that the city's noise ordinance be strengthened

Councilor Ferrini moved to accept and place the letter on file. Seconded by Councilor Grasso and voted.

- G. Letter and Petition from Eileen MacDonald regarding mosquito spraying in the Islington Creek Neighborhood

Councilor Reynolds moved to refer to the City Manager for a report back. Seconded by Councilor Pantelakos.

City Manager Bohenko advised the City Council that we contacted our Mosquito Control Specialist Mike Morrison and they were not spraying during the weekend Ms. MacDonald cited in her letter. He said that we would be contacting Ms. MacDonald to discuss the issue further.

Councilor Whitehouse said that we should honor her request and not spray in that area.

City Manager Bohenko said our licensed Mosquito Control Specialist Mike Morrison would provide a presentation to the City Council on mosquito spraying during one of the October Council meetings.

Motion passed.

- H. Letter from Elizabethada Wright, League of Women Voters of Greater Portsmouth, requesting permission to hold two Candidate's Nights on Wednesday October 20th and October 27th from 6:00 p.m. – 9:00 p.m. in the Council Chambers

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

- I. Letter from George Robinson, Portsmouth Housing Authority, regarding Proposed Reuse of Lafayette School

Councilor Hynes moved to table the request and hold a work session to discuss the request further. Seconded by Councilor Grasso.

Councilor Grasso said that she would like hear the proposal of the Portsmouth Housing Authority before a vote is taken on the request.

Councilor Marchand agreed that he would like to receive more information prior to voting on the request.

Councilor Whitehouse said something needs to be done to the building in the next few months and he wants the boundary of the playground to remain unchanged.

City Manager Bohenko said that the Portsmouth Housing Authority needs some sense from the City Council that they are willing to move forward with this request before an evaluation of the building is done.

George Robinson said that the Portsmouth Housing Authority would like to develop workforce housing. The information is preliminary and they would like to have an architectural firm review the building and provide an estimated cost for the project. He advised the City Council that half of the units would be for city employees and the city would decide how someone would qualify for a unit.

Councilor Reynolds said that he supports the concept and would like to have a work session to further discuss the issues.

Councilor Pantelakos asked Mr. Robinson what he would like from the City Council this evening. Mr. Robinson said a consensus that the City Council would pursue this project in the future.

Councilor Whitehouse asked if we could add to the motion an amendment to give indication to the Portsmouth Housing Authority how the Council feels about the proposal.

Councilor Ferrini moved to amend the motion to insert a date of November 15th for the work session. Seconded by Councilor Grasso and voted.

Main motion passed as amended.

Assistant Mayor Hanson suggested holding a public hearing on the request to receive input from the public.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Request to Reschedule City Council Meeting

Assistant Mayor Hanson moved to reschedule the regular meeting of October 18th to October 25th. Seconded by Councilor Whitehouse and voted.

2. Report Back Re: Proposed Shriners Parade on May 28, 2005

City Manager Bohenko said that he met with Representatives from the Shriners and they agreed any overtime cost incurred by the City during the parade would be billed to the Shriners.

Councilor Whitehouse moved to authorize the City Manager to proceed with giving permission to the Shriners with their request to conduct a parade on Saturday, May 28, 2005. Seconded by Councilor Grasso and voted.

3. Report Back Re: Amending Chapter 10, Article I, Section 10-102 – Definitions and Section 10-208, Table 4

City Manager Bohenko said that the City Council and Planning Board had a work session in July on this matter and the general consensus was that an overlay district would be the best approach to this issue. He recommended the motion as outlined in his memorandum.

Councilor Ferrini moved to adopt the City Manager's recommendation. Seconded by Councilor Grasso and voted.

City Manager's Recommendation:

- *Remove the zoning ordinance, which passed first reading on May 17, 2004 from the table;*
- *Amend that ordinance by deleting the body of the ordinance in its entirety and replacing it with the proposed amendment included with the agenda packet for this meeting under the City Manager's name;*
- *Continue second reading of the amended ordinance until the Council meeting of October 4, 2004; and,*
- *Schedule a public hearing and vote on second reading of the amended ordinance for October 4, 2004.*

4. Report Back from Planning Board Re: Fernald Court – Permission to Construct a Dock, Ramp and Float Adjacent to the Right-of-Way

Assistant Mayor Hanson moved to accept the Planning Board's recommendation to grant permission to allow the construction of a dock, ramp, and float at property located at 67 Ridge's Court, as proposed in the revised plans and with the Planning Board's stipulations. Seconded by Councilor Hynes.

Mayor Sirrell passed the gavel to Assistant Mayor Hanson.

Mayor Sirrell asked if this would effect the neighbors water view. David Holden, Planning Director said he does not feel that this would obstruct the views of the neighbors.

Councilor Whitehouse moved to amend the motion to include another stipulation that no construction of a new dock take place until the existing dock has been demolished. Seconded by Councilor Pantelakos and voted.

Councilor Ferrini advised the City Council that a significant public process was held with this request by the Planning Board.

Main motion passed as amended.

Assistant Mayor Hanson passed the gavel back to Mayor Sirrell.

Planning Board's Stipulations:

- *That no boats shall be tied up on the City right-of-way side of dock*
- *That the right-of-way as it extends into the water shall be maintained free and open so that the use of the dock does not obstruct this area*
- *That the applicant shall convey to the City any fee simple ownership rights under the City's right-of-way*
- *That the applicant agrees to allow the City to construct a dock within the right-of-way*
- *That the City Attorney shall approve any necessary agreements for the content and form.*

5. Request from Police Commission Re: Upgrade of Salaries

City Manager Bohenko said that this would increase the salaries for crossing guards and create an Auxiliary Supervisor position. The supervisory position is only needed twice a year during big events such as July 4th and First Night.

Councilor Ferrini moved to approve the upgrade of salaries as recommended by the Police Commission. Seconded by Councilor Marchand.

Councilor Pantelakos asked Police Commissioner Howe to confirm that the supervisor position is only used twice a year. Commissioner Howe said that they would work other nights but not in a supervisory position. He said a supervisor would only be used when there is a large number of auxiliaries in the field.

Motion passed.

6. Polling Hours for November 2, 2004 Presidential General Election

Councilor Ferrini moved to approve the polling hours be set from 8:00 a.m. to 8:00 p.m. for the Presidential General Election. Seconded by Assistant Mayor Hanson and voted.

City Manager Bohenko reminded the City Council of the work session on Monday, September 27th regarding the FY06 Budget Process. Councilor Reynolds asked if the City Council would reschedule the work session because he will be away on business.

Assistant Mayor Hanson said that he would be away as well but suggested participating in the session via a conference call. City Manager Bohenko said that a conference call could be arranged for Councilor Reynolds and Assistant Mayor Hanson to participate in the work session.

Mayor Sirrell said that she did not want the work session rescheduled and a conference call would be established for Councilor Reynolds and Assistant Mayor Hanson to participate.

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 \$1,000 contribution from the Town of Hanover and the \$5,000 from the Town of Sunapee to be placed in the Coalition Legal Fund. Seconded by Councilor Whitehouse and voted.

Assistant Mayor Hanson passed the gavel back to Mayor Sirrell.

2. Appointments

The City Council considered the appointment of Eva Powers as a regular member to the Conservation Commission filling Alanson Sturgis unexpired term and the consideration of Jennifer Marcelais to the Mayor's Blue Ribbon Cemetery Committee. These appointments will be voted on by the City Council at the October 4th City Council meeting.

Assistant Mayor Hanson moved to appoint Skye Maher as an alternate to the Conservation Commission filling the unexpired term of Eva Powers until April 1, 2006. Seconded by Councilor Grasso and voted.

Councilor Hynes moved to suspend the rules in order to continue the meeting beyond 10:30 p.m. Seconded by Assistant Mayor Hanson and voted.

C. ASSISTANT MAYOR HANSON

1. Traffic & Safety Committee Action Sheet and Minutes of the August 19, 2004 meeting

Assistant Mayor Hanson moved to approve and accept the Traffic & Safety Committee action sheet and minutes of the August 19, 2004 meeting. Seconded by Councilor Whitehouse.

Councilor Raynolds moved to divide the question and remove item #7 (Lincoln Avenue – Miller to Richards – Resident Request to allow on-street parking) from the approval of the Traffic & Safety Committee action sheet. Seconded by Councilor Whitehouse.

Councilor Raynolds said that this is a busy block and there are many children in the area.

Councilor Whitehouse said that there was an on-site review of the area by the Traffic & Safety Committee and the vote was unanimous.

Motion to divide the question passed with Assistant Mayor Hanson and Councilor Whitehouse voting opposed.

Councilor Marchand moved to approve and accept the remaining portion of the action sheet and minutes of the Traffic & Safety Committee meeting of August 19, 2004. Seconded by Councilor Hynes and voted.

Councilor Raynolds moved to refer item 7 ((Lincoln Avenue – Miller to Richards – Resident Request to allow on-street parking) back to the Traffic & Safety Committee for further discussion and consideration. Motion received no second.

Assistant Mayor Hanson moved to approve item 7 (Lincoln Avenue – Miller to Richards – Resident Request to allow on-street parking) as presented. Seconded by Councilor Whitehouse. On a roll call vote 6-3, motion passed. Assistant Mayor Hanson, Councilors Ferrini, Marchand, Pantelakos, Whitehouse and Mayor Sirrell voted in favor. Councilors Grasso, Hynes and Raynolds voted opposed.

2. Parking Committee Action Sheet and Minutes of the August 19, 2004 meeting

Assistant Mayor Hanson moved to approve and accept the Parking Committee action sheet and minutes of the August 19, 2004 meeting. Seconded by Councilor Grasso and voted.

3. Proposed Rezoning

Assistant Mayor Hanson moved to refer to the Planning Board for review and report back to the City Council at the October 25th meeting. Seconded by Councilor Whitehouse and voted.

D. COUNCILOR PANTELAKOS

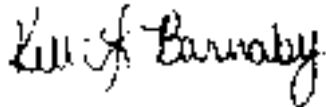
1. Noise Ordinance

Councilor Pantelakos said that she wants the noise ordinance strengthen.

Councilor Grasso moved to hold a work session in the new year with input from the Police Department on how complaints are handled and where they originate. Further, have the Planning Board make suggestions on how to strengthen the ordinance and review other communities ordinances and how they handle noise complaints. Seconded by Councilor Pantelakos and voted.

XIII. ADJOURNMENT

At 11:00 p.m., Councilor Whitehouse moved to adjourn. Seconded by Councilor Pantelakos and voted.



Kelli L. Barnaby, City Clerk