

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, DECEMBER 20, 2004

PORTSMOUTH, NH
TIME: 7:00PM

I. CALL TO ORDER

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

II. ROLL CALL

Present: Mayor Sirrell, Assistant Mayor Grasso, Councilors Ferrini, Marchand, Pantelakos, Hynes, Raynolds and St. Laurent

Absent: Councilor Whitehouse

III. INVOCATION

Mayor Sirrell asked everyone to join in a moment of silent prayer in memory of Councilor Whitehouse's mother Grace who recently passed away.

IV. PLEDGE OF ALLEGIANCE

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

MAYOR'S AWARD

1. Cool Jewel's

Mayor Sirrell presented George Russell and Barb Bradford with a Mayor's Award in recognition of their generosity during the Thanksgiving Dinner held at the Metro Restaurant by providing the needy, elderly, and homeless with hand knitted mittens.

2. Patricia Hersey (Not on agenda)

Mayor Sirrell presented Patricia Hersey with a Mayor's Award in recognition of her impending retirement and 34 years of service to the United States Post Office and serving as the Post Master for the last 12 years in the City of Portsmouth.

PRESENTATION

1. Melanson, Heath and Company, P.C. Auditors' Financial Report for the Year Ending June 30, 2004

Scott McIntyre reviewed the financial report and its highlights with the City Council. He reported that the City had a strong fiscal year with assets increasing by almost \$7 million dollars.

V. ACCEPTANCE OF MINUTES – DECEMBER 6, 2004

Councilor Pantelakos moved to accept and approve the minutes of the December 6, 2004 City Council meeting. Seconded by Councilor St. Laurent and voted.

VI. PUBLIC COMMENT SESSION

Councilor Marchand moved to suspend the rules to lengthen the Public Comment Session to 45 minutes. Seconded by Councilor St. Laurent. On a roll call vote 5-3 motion failed to pass. Councilors Ferrini, Marchand, Pantelakos, Reynolds and St. Laurent voted in favor. Assistant Mayor Grasso, Councilors Hynes and Mayor Sirrell voted opposed. A two-thirds vote is required for passage.

Tom Carroll spoke regarding material debris on Market Street Extension from the scrap pile operations. He said that this debris is dangerous and needs to be addressed immediately.

Jeffrey Cooper spoke opposed to the demolition of the JFK building for the construction of a new library. He said that the JFK site is not the right location for a new library.

Rick Horowitz spoke in favor of saving the JFK armory and finding another site for the construction of a new library. He said that the JFK site does not supply the amount of parking needed for a library.

Leah Caswell said the construction of a library at the JFK site would cause irrevocable damage to the site. She said that the JFK armory is a historic building and it should be preserved.

Ralph DiBernardo said that the JFK building is the right site for a new library and it is time to put this issue to rest and build the long overdue new library. He said that the decision was made through a democratic process and this issue has been debated for 20 years, it is now time to move forward and build the new library.

Dave Mikolaities spoke opposed to the library being constructed at the JFK site. He said since the construction of a fence around the JFK armory parking has been a problem for residents in the area. He said he can no longer park in front of his home or in his yard safely.

Peter Egelston asked the City Council to reconsider the demolition of the JFK armory. He said we need to value this historic resource and preserve the building.

Robert Padian said that the JFK site is the right site for a new library. He said only 2% of the population of the City have signed the petition opposed to the site and demolition of the JFK building. He said it is time to build the library.

Allen Hawthorne said a public review should be held on the construction and parking issues related to the construction of a new library at the JFK site.

Joanne Henderson said that a new library belongs downtown, not in a residential area.

Boyd Morrison said downtown is the place for a new library. He said the construction of a new library at the JFK site would cause a negative effect upon the South Mill Pond.

Paul Sorli spoke opposed to the library being constructed at the JFK site. He said there are too many buildings that are icons moving out of the downtown.

Jack Kelley said the new library belongs in the Northern Tier of the City. He said if the site for the new library was part of the original referendum vote it would not have passed because residents of this City do not want the library at the JFK site.

Marilyn Kelley spoke in support of reconsidering the site for the new library. She said that the new library does not belong at the South Mill Pond.

Peter Bresciano spoke regarding the Noise Committee meeting at the PDA. The PDA are implementing several items to elevate the noise issues in the area. He advised the City Council that some homes would be insulated to assist with the noise issues. He reported that more foliage would be planted to assist in reducing the noise as well as the construction of a fence behind Port City Terminal.

Councilor St. Laurent suggested that Peter come forward in a more formal presentation to the City Council on this matter in the future.

VII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 10, ARTICLE XII, SECTION 10-1202 – OFF-STREET PARKING INNOVATION: INTER MODAL TRANSPORTATION CREDIT FOR CENTRAL BUSINESS A AND CENTRAL BUSINESS B DISTRICTS – IMPACT FEE

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

City Manager Bohenko asked Economic Development Commission Chair Dana Levenson to come forward to address the City Council on this ordinance.

Mr. Levenson described the process used by the Economic Development Commission and a subcommittee to recommend amending the impact fee. The current impact fee has not impeded development in the Central Business District and the public and business community considers the fee as a “tax” or cost of doing business in the city. The recommended fee of \$1,200 is derived from the city’s annualized debt service cost for one year to build a parking space at the current cost per public garage space. The fees will be earmarked for a parking facility as specified in the city’s capital plan for 2008. The fees will also be adjusted annually according to the CPI and reviewed and updated no less than every five years.

Ralph DiBernardo said the original fee of \$500 was an arbitrary figure with the new fee being just. He spoke in favor of the ordinance and urged the City Council to pass the ordinance as submitted.

Peter Bresciano spoke in favor of the ordinance and the new fee.

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

VIII. APPROVAL OF GRANTS AND DONATIONS

A. Acceptance of Grant for Wastewater Reuse Study

City Manager Bohenko explained that the grant would allow a feasibility study to investigate the use of processed water from the Pease Wastewater Treatment Plant to irrigate the Pease Gold Course at the Tradeport.

Assistant Mayor Grasso moved to accept a grant in the amount of \$10,000 and enter into a contract with the New Hampshire Department of Environmental Services, New Hampshire Estuaries project and that the City Council authorize the City Manager to sign and execute documents which may be necessary for this contract. Seconded by Councilor Hynes.

Councilor St. Laurent asked that the study ensure that the water would be safe to use for the proposed purpose. City Manager Bohenko said that we would review that and other issues and this would come back to the City Council before anything is implemented.

Councilor Reynolds commended City Manager Bohenko for his insight in seeking this grant.

Motion passed.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

A. Second reading of Ordinance amending Chapter 10, Article XII, Section 10-1202 – Off-Street Parking Innovation: Inter Modal Transportation Credit for Central Business A and Central Business B Districts – Impact Fee

Councilor Pantelakos moved to pass second reading of the amended ordinance, as submitted, and hold third and final reading at the first Council meeting in January. Seconded by Councilor St. Laurent.

Councilor Pantelakos said that she would like all of the funds to be placed in a fund designated for parking.

Councilor Marchand suggested allowing small businesses that have limited capital available to them to pay half of the fee at the time of the permit and the remainder due before the Certificate of Occupancy is issued.

City Attorney Sullivan advised the City Council that Councilor Marchand's suggestion is an avenue of potential problems. He said if the City Council wanted to move forward with this suggestion an amendment could be drafted and presented at the next meeting. The City Council provided no indication for City Attorney Sullivan to draft an amendment for consideration at the next City Council.

Councilor St. Laurent expressed concern with businesses paying the fee rather than constructing a parking area at the location as a way to save them money.

Motion passed.

X. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATIONS AND PETITIONS

- A. Letter from Donald Allison, Eastern States 20 Mile Road Race, requesting permission to hold the annual Eastern States 20 Mile Road Race on Saturday, March 26, 2005

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

- B. Letter from Dante Angelucci, Cathartes Investments, request for Licenses and Easements for the Hilton Garden Inn and Harbour Hill Condominiums

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

- C. Letter from Faith Linsky, American Diabetes Association, requesting permission to hold the annual Tour de Cure on Sunday, May 1, 2005

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

- D. Letter from Kathryn Gill, Cross Roads House Board of Directors, regarding sheltering the homeless

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

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Reschedule City Council Meeting

City Manager Bohenko requested the City Council to reschedule the City Council meeting of January 3, 2005 to January 10, 2005.

Assistant Mayor Grasso moved to reschedule the January 3, 2005 meeting to Monday, January 10, 2005. Seconded by Councilor St. Laurent and voted.

2. Request Renewal of Cable Television Franchise Agreement between the City of Portsmouth and Comcast of Maine/NH, Inc.

City Manager Bohenko asked Gene Fisk of the Cable Commission to come forward to discuss the agreement with the City Council.

Gene advised the City Council that this is a three-year agreement because the city feels that technology will change in the next three years allowing for competition. The City has retained its five-percent franchise fee; our government access channel and free internet services for the schools and municipal buildings.

Assistant Mayor Grasso moved to authorize the City Manager to enter into a cable television franchise renewal agreement between the City of Portsmouth and Comcast of Maine/NH, Inc. for a period commencing on December 31, 2004 through December 31, 2007. Seconded by Councilor Pantelakos.

The City Council thanked the Cable Commission for their hard work on this agreement.

Motion passed.

3. Health Department Staffing

City Manager Bohenko requested that the City Council approve the creation of Sanitarian position in the Health Department to assist the Health Inspector with his responsibilities and inspections.

Councilor Hynes moved to authorize the City Manager to create a position of Sanitarian, Grade 14 within the Professional Management Association Salary Schedule, and further, authorize the City Manager to use up to \$20,000 from the FY05 Contingency to fund this position for the remainder of the fiscal year. Seconded by Councilor Pantelakos.

Councilor Marchand said it is critical to staff this department properly and there is a need for an additional person.

Councilor St. Laurent said it is difficult to create a new position but there is a need for this position. He suggested reviewing the Health Department fees for possible increases to assist in the funding of this new position.

Councilor Reynolds said that there is a strong need for the creation of this position in the Health Department.

Motion passed.

4. Request for Approval of the Collective Bargaining Agreement between the City of Portsmouth and AFSCME Local #1386

Councilor Pantelakos moved to approve the five-year agreement commencing July 1, 2003 through June 30, 2008 between the City of Portsmouth and AFSCME Local #1386. Seconded by Assistant Mayor Grasso.

Councilor Ferrini said he is pleased to vote for the contract and that the hours of operation at the recycling center may be expanded in the future at no additional cost to the taxpayers. He said it is important that we are service oriented.

Motion passed with Councilor Raynolds abstaining because he did not attend the non-meeting with counsel prior to the meeting regarding the agreement.

5. Request to Renew Lease of 251 Bartlett Street by the Creek Athletic Club

City Attorney Sullivan advised the City Council that this is a one-year lease renewal and there have been no changes from the prior terms.

Councilor St. Laurent moved to authorize the City Manager to extend the Lease with the Creek Athletic Club for the property at 251 Bartlett Street for a period of April 1, 2005 through March 31, 2006. Seconded by Assistant Mayor Grasso and voted.

6. Request for Approval of Pole License Agreements #63-413 and #63-414

City Manager Bohenko advised the City Council that the Public Works Department has reviewed the agreements and recommend their approval.

Councilor Pantelakos moved to approve the requests from PSNH for pole license agreements #63-413 and #63-414 as recommended by the Public Works Department. Seconded by Councilor St. Laurent and voted.

B. MAYOR SIRRELL

1. Donation to the Coalition Legal Fund

Mayor Sirrell passed the gavel to Assistant Mayor Grasso.

Mayor Sirrell moved to accept the \$3,000 contribution from the Town of Sandwich to be placed in the Coalition Legal Fund. Seconded by Councilor Pantelakos and voted.

2. Appointments

The City Council considered the appointment of Kathleen Brown to the Recreation Board and Lea Aeschliman to the Trustees of the Trust Fund. These appointments will be voted on at the next City Council meeting.

Assistant Mayor Grasso passed the gavel back to Mayor Sirrell.

C. COUNCILOR ST. LAURENT

1. Proposed Guideline for FY06 Budget

Councilor St. Laurent said he would like the City Council to establish a guideline for the FY06 budget.

Mayor Sirrell passed the gavel to Assistant Mayor Grasso.

Councilor St. Laurent moved to set a budget guideline for FY06 of no increases higher than the Consumer Price Index (CPI). Seconded by Mayor Sirrell.

Assistant Mayor Grasso said that the Joint Budget Committee sets the guidelines and provides them to the City Council for consideration.

Mayor Sirrell said that she seconded the motion to allow for discussion. She told Councilor St. Laurent that the guidelines should come from the Joint Budget Committee and encouraged him to work with Assistant Mayor Grasso on this issue.

Councilor Marchand asked at what point in the process would a number come from the Joint Budget Committee relative to the budget. City Manager Bohenko responded that the Joint Budget Committee discussed projections at their last meeting for fixed costs, which are hovering at 5% presently.

Assistant Mayor Grasso passed the gavel back to Mayor Sirrell.

City Manager Bohenko said because of fixed costs the only thing we can do is cut services to keep costs down.

Councilor Ferrini said that the Council should keep with the Joint Budget Committee process on establishing budget guidelines.

Assistant Mayor Grasso advised the City Council if we allow for only a 2.5% increase in the budget it would mean severe cuts to the departments and for that reason, she will vote against the motion.

Councilor St. Laurent said he is thinking about the needs of the taxpayers ability to pay their taxes and their costs are fixed as well.

On a roll call vote 7-1, motion failed to pass. Assistant Mayor Grasso, Councilors Ferrini, Marchand, Pantelakos, Hynes, Reynolds and Mayor Sirrell voted opposed. Councilor St. Laurent voted in favor.

2. Temporary Hold on Demolition of Armory

Councilor St. Laurent moved to put a temporary hold of three months on the demolition of the armory. Seconded by Councilor Raynolds.

City Attorney Sullivan referred to Robert's Rules and how it is intended that business move forward and not backwards. Therefore, any time a question has been voted on at any term there are two ways to bring that question back before the City Council. The first is to reconsider at the meeting when the City Council took the action. The second is to take action at the next meeting when a member of the City Council voting on the prevailing side makes the motion. He advised the City Council that on November 8, 2004 the City Council voted to reaffirm the vote therefore it is too late to utilize the reconsideration, which five votes would be necessary. The City Council now would only have the ability for a suspension of the rules, which require a two-thirds vote of six City Councilors voting in favor of the motion to suspend the rules. City Attorney Sullivan advised Mayor Sirrell to rule the motion to put a temporary hold of three months on the demolition of the armory out of order.

Councilor St. Laurent said it is not a motion to rescind the original vote, he is asking for a temporary hold and therefore it is a separate motion from the original motion voted on by the City Council during the November 8, 2004 City Council meeting.

Councilor Raynolds moved to amend the motion to have the City suspend progress on the demolition of the JFK site pending a report back from the City Manager on the likely market purchase price of the Portsmouth Herald site when it becomes available. Seconded by Councilor St. Laurent.

City Attorney Sullivan also advised Mayor Sirrell to rule the motion by Councilor Raynolds to amend out of order for the same reason. He advised the City Council without a motion to suspend the rules both motions are out of order.

Councilor St. Laurent moved to suspend the rules to allow the original motion. Seconded by Councilor Raynolds.

Councilor Marchand said he would support the motion to suspend the rules in order to allow for dialogue on the issue.

Councilor Ferrini said he would vote against the motion. He said that residents have utilized the process and you cannot sit on the fence on this issue.

Assistant Mayor Grasso said she would vote against the motion. She said we have been talking about this issue for over ten years and there have been numerous public hearings on the matter. She said that this is the best site available on city owned land and it is time to move forward with our commitment to build a new library.

Councilor Pantelakos said she would vote against the motion. She said that we have the right site for a new library and the majority of the people in the city have spoken on this issue.

Councilor Marchand said that he knocked on a lot of doors during his campaign and 450 people out of 22,000 is not a big enough number compared to the number that have said to put the library at the JFK site. The residents want the City Council to hold the line on spending and deliver value for the dollars they are spending in taxes.

Councilor Raynolds said that he deferred to the wisdom of his fellow councilors who supported building the library on Parrott Avenue. But after months of listening to the debate, he has decided to object to the chosen site. He said he feels momentum, fatigue, and ego have been the driving force to put the library at the JFK site. He said that a library is the pillar of a community therefore if the city is going to spend \$7 million to build the best building, we should be willing to spend \$2 million or \$3 million to buy the best piece of land for a new library.

Councilor St. Laurent said he knew that this wasn't going to be easy for the City Council to reconsider the vote but there are a lot of negatives to the JFK site.

City Attorney Sullivan said if the motion to suspend the rules passes by a two-thirds vote Councilor St. Laurent's prior motion could be considered by the City Council. The City Council would then take a vote on Councilor St. Laurent's original motion requiring a majority vote.

On a roll vote 5-3 motion to suspend the rules to allow the original motion failed to pass. Assistant Mayor Grasso, Councilors Ferrini, Pantelakos, Hynes and Mayor Sirrell voted opposed. Councilors Marchand, Raynolds and St. Laurent voted in favor. A two-thirds vote is required for passage.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor St. Laurent requested that City Manager Bohenko send a copy of the report regarding the costs associated with the construction of a new Library be sent to the Association of Portsmouth Taxpayers.

XIII. ADJOURNMENT

At 9:30 p.m., Councilor Hynes moved to adjourn. Seconded by Councilor Pantelakos and voted.

