

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, APRIL 18, 2005

PORTSMOUTH, NH
TIME: 7:00PM

I. CALL TO ORDER

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

Assistant Mayor Grasso announced that Mayor Sirrell is at home under doctor's care recovering from pneumonia.

II. ROLL CALL

Present: Assistant Mayor Grasso, Councilors Ferrini, Marchand, Pantelakos, Hynes, Reynolds, Whitehouse and St. Laurent

Absent: Mayor Sirrell

III. INVOCATION

Assistant Mayor Grasso 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.

V. ACCEPTANCE OF MINUTES – APRIL 4, 2005

Councilor St. Laurent moved to accept and approve the minutes of the April 4, 2005 City Council meeting. Seconded by Councilor Whitehouse and voted.

VI. PUBLIC COMMENT SESSION

Tom Carroll said he brought a bucket of scrap metal particles to the City Council in January and since that time he wanted to determine whether or not these particles from the Port were making their way into the downtown area. He presented the City Council with a small zip lock bag containing metal particles that he recently collected from the downtown area. He said that this presents an environmental problem that needs to be addressed.

Joel Carp said that problems continue to exist at the Port with the scrap metal operations. He said that he would like other types of businesses to operate at the Port that are better economically and environmentally. He suggested that the Scotia Prince be contacted to consider locating at the Port. He urged the City Council to become actively involved in the business of the Port. He requested each City Council member attend the Pease Development Authority meeting scheduled on May 20, 2005 at 9:00 a.m. to make their opinions known about the Port and its operations.

Phyllis Killam-Abell spoke in support of the recommendation of the African Burial Ground Committee. She said it is important to recognize these graves and not further disturb the area.

Councilor Pantelakos moved to suspend the rules in order to take up Item X. D.1. – Report Back Re: Mayor’s Blue Ribbon African Burial Ground Committee. Seconded by Councilor Ferrini and voted.

Councilor Hynes reviewed the report of the African Burial Ground Committee with the City Council. He advised the City Council that the Committee is recommending a street closure of Chestnut Street at its intersection with Court Street, elimination of all on-street parking, and creation of green space on the westerly side of Chestnut Street. The issue the Committee dealt with was how best to memorialize these individuals and their graves.

Councilor Hynes moved to accept the report of the African Burial Ground Committee and refer it to the Traffic & Safety Committee for a report back and authorize the City Manager to proceed with a more comprehensive plan for the closure of the street. Seconded by Councilor Pantelakos.

Councilor St. Laurent asked City Attorney Sullivan if a public hearing of the City Council would be required to close the street. City Attorney Sullivan said that a public hearing is not required by the City Council but the Traffic & Safety Committee would hold a public hearing.

Councilor Whitehouse asked if there was consideration to make Chestnut Street one-way from State Street to Court Street. Councilor Hynes said consideration was given but the recommendation of the Committee is to close the street entirely.

Councilor Pantelakos said that the neighborhood has expressed their support of the recommendation from the African Burial Ground Committee.

Councilor Whitehouse expressed concern with the Fire Department’s ladder truck making the turn from State Street onto Chestnut Street in the case of an emergency. Fire Chief LeClaire said that issue was addressed and the ladder truck will be able to access the area.

Councilor Ferrini said all of these questions being posed by Councilor Whitehouse were answered and addressed during the City Council work session of April 11, 2005. He said we need to move forward and accept the recommendation of the African Burial Ground Committee.

Councilor Whitehouse said that he would make his views known at the Traffic & Safety Committee meeting regarding this matter.

Motion passed.

VII. APPROVAL OF GRANTS AND DONATIONS

- A. Acceptance of Donations to the New Library Building Fund
- Walter F. and Carmen A. Lang - \$50.00
 - Raimond Bowles in memory of his mother, Ella Shannon Bowles - \$500.00
 - Anonymous Donation - \$500.00

Councilor Raynolds moved to approve and accept the donations to the New Library Building Fund as listed. Seconded by Councilor Pantelakos and voted.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance amending Chapter 6, Article VII, - Dog Ordinance be deleted in its entirety and replaced with new Sections 6.701 – 6.715; Chapter 8, Article II, Section 8.202(D) – Dogs in Parks; Chapter 9, Article IV – Removal of Dog Excrement deleted in its entirety

Councilor Pantelakos moved to pass first reading of the amended ordinances, as submitted, and hold a public hearing and second reading at the May 2, 2005 City Council meeting. Seconded by Councilor Ferrini.

Councilor Marchand said that this proposed ordinance is much more effective. He suggested a report back from the Animal Control Officer or Police Department to the City Council after the ordinance has been in place six months with data relating to enforcement to see if the goals of the ordinance are being met.

Councilor Raynolds commended the work of the Dog Committee in preparing this ordinance. He spoke concern with Section 6.702 – Nuisance animals item #6 which reads: barks, whines, howls or cries in an excessive and continuous fashion so as to disturb the peace and quiet of any other person. A “continuous fashion” shall be defined as more than thirty (30) minutes. He stated his concerns are not the time limit but the time of day when the nuisance occurs. He said he would discuss this matter further with members of the Committee and possibly offer an amendment at the May 2, 2005 City Council meeting.

Councilor Pantelakos said she feels the definition does address the time of day because if an individual was to call and complain about an animal creating a nuisance the same time each day it would be addressed under Section 6.702 of the ordinance.

Councilor St. Laurent asked if an animal was to bark early in the morning wouldn't it be addressed under the Noise Ordinance. City Attorney Sullivan said it might be considered a violation of the Noise Ordinance.

Councilor Whitehouse suggested limiting the amount of items on the May 2, 2005 agenda due to the possible large turn out for the public hearing on this ordinance.

Motion passed.

- B. Third and final reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking sub-section A – Islington Street: southerly side from Essex Avenue to a point 180 feet westerly

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

IX. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATION AND PETITIONS

- A. Letter from Attorney Alec McEachern, Shaines & McEachern Professional Association, request for Amendment to Zoning Ordinance to Permit Financial Institutions in the Office/Research Zone

Councilor St. Laurent moved to refer to the Planning Board for report back. Seconded by Councilor Whitehouse.

Councilor Reynolds requested that the Planning Board consider that a bank could add a drive through, which would have a different flavor than a business in the office research zone.

Councilor Ferrini said he appreciates the comments of Councilor Reynolds and it will be part of the discussion by the Planning Board.

Motion passed.

- B. Letter from Roger Clements, New Hampshire National Guard, requesting permission to hold a Military Appreciation Day Parade on Saturday, August 6, 2005 at 2:00 p.m.

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

X. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

- 1. Report Back Re: Request for a Proposed Rezoning Properties Located off Mirona Road from Industrial to General Business

City Manager Bohenko said that the Planning Board is recommending approval of the request and it is in conformance with the Master Plan. He said he would instruct the City Attorney to draft an ordinance for first reading at the May 2, 2005 Council meeting if approved by the City Council.

Councilor St. Laurent moved to accept the Planning Board's recommendation to rezone properties off Mirona Road from Industrial to General Business and authorize the City Attorney to draft an ordinance amendment that would schedule this zoning change for a first reading at the May 2, 2005 City Council meeting. Seconded by Councilor Hynes and voted.

2. Acceptance of Draft Hazard Mitigation Plan 2005

City Manager Bohenko said the plan must be in place and approved by FEMA to receive federal funds for disaster assistance. He said that once FEMA has approved the plan the City Council would need to establish a public hearing for input from residents.

Fire Chief LeClaire said that the City in conjunction with the Rockingham County Planning Commission developed the plan. He said the plan is similar to the All-hazards Operational Plan and must be approved by FEMA in order for the City to receive natural disaster relief funds from the federal government. He advised the City Council that he would like the plan to become an annex to our Emergency Operation Plan.

Councilor Whitehouse moved to accept the Draft Hazard Mitigation Plan 2005, as submitted and send to FEMA for approval. Seconded by Councilor Reynolds.

Councilor Marchand spoke in support of the document.

Councilor St. Laurent requested when the public hearing is held on the plan that the document not be reproduced due to its size.

Motion passed.

3. Proposed License Agreement with COAST

City Manager Bohenko announced that COAST is preparing to extend its service to cover Portsmouth Regional Hospital. COAST has entered into an agreement with the owner of the Frank Jones Center to permit the buses traveling from Borthwick Avenue over the Frank Jones Center property to reach Cate Street and the installation of an electric gate to exit the property. In order to power the gate, COAST requires permission from the City to allow PSNH to run power from one of its poles across 22 feet of City owned property to the gate. He advised the City Council that the license would terminate if the COAST bus route is no longer needed through the property.

Councilor Reynolds moved to authorize the City Manager to enter into a License Agreement with COAST for the purposes of providing electricity to the electric gate. Seconded by Councilor St. Laurent.

Councilor Pantelakos spoke against the motion because the length of time it has taken COAST to agree to service Portsmouth Regional Hospital and they should gain access to Cate Street like any other motorist.

City Manager Bohenko said the reason for using the gate is to keep the buses on their time schedule.

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

City Manager Bohenko announced that Household Hazardous Waste Collection Day is scheduled for May 7, 2005 from 8:00 a.m. to 12:00 p.m. at the Department of Public Works on 680 Peverly Hill Road.

City Manager Bohenko advised the City Council that a Legislative Delegation meeting is scheduled for Friday, April 22, 2005 at 9:00 a.m. in Conference Room A.

City Manager Bohenko reported that Preble and Crescent Way streetscape improvement work would begin this week.

Councilor St. Laurent asked the City Manager if we would be receiving funding under the federal emergency act for the snowstorms that took place in January. City Manager Bohenko said he would advise the City Council once he is notified if we were approved for funding.

B. MAYOR SIRRELL

1. Appointments

The City Council considered the reappointment of John Gregg to the Cable Television and Communications Commission and the reappointment of Donald Green to the Conservation Commission. These appointments will be voted on by the City Council at the May 2, 2005 meeting.

Councilor Whitehouse moved to reappoint Steve Berg to the PEDLP Review Committee until April 18, 2008. Seconded by Councilor Pantelakos and voted.

Assistant Mayor Grasso announced that on Tuesday, April 19, 2005 at 3:00 p.m. Pro Portsmouth would be unveiling the logo for Children's Day 2005

Assistant Mayor Grasso advised the City Council that on Saturday, April 23, 2005 at Noon a rolling rally would be held by the Save Our Shipyard Task Force. The rally will start at Prescott Park and proceed across the bridge to the Portsmouth Naval Shipyard.

C. ASSISTANT MAYOR GRASSO

1. Proposed Request to Reschedule May 19, 2005 Municipal Budget Work Session

Assistant Mayor Grasso requested that the City Council reschedule the May 19, 2005 Municipal Budget Work Session from May 19, 2005 to May 23, 2005 due to the Futures Dinner.

Councilor Pantelakos moved to reschedule the Municipal Budget Work Session to Monday, May 23, 2005 at 6:30 p.m. in Conference Room A. Seconded by Councilor Ferrini and voted.

Councilor Whitehouse said he was interested in the comments made by Mr. Carp regarding the Scotia Prince locating at the Port. City Manager Bohenko said that the Pease Development Authority has not been approached but he could send a letter to the Director of Pease Development Authority advising them that the City Council is very interested in this and would be supportive of the Scotia Prince locating at the Port.

XII. ADJOURNMENT

At 8:05 p.m. Councilor Whitehouse moved to adjourn. Seconded and voted.

A handwritten signature in black ink that reads "Kelli L. Barnaby". The signature is written in a cursive, flowing style.

Kelli L. Barnaby, City Clerk