

## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, DECEMBER 19, 2005

PORTSMOUTH, NH  
TIME: 7:00 PM

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

Mayor Sirrell called the meeting to order at 7:05 p.m.

### **II. ROLL CALL**

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

### **III. INVOCATION**

Mayor Sirrell asked everyone to join in a moment of silent prayer in memory of Cecelia Kane who recently passed away.

### **IV. PLEDGE OF ALLEGIANCE**

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

### **MAYOR'S AWARDS**

1. George Hosker, Christmas Parade Coordinator

Mayor Sirrell presented a Mayor's Award and gift to George Hosker for his leadership and coordination of the Christmas parade over the last seven years. George accepted the award and gift with thanks and appreciation.

2. Audrey Bierhans, Mayor's Blue Ribbon Cemetery Committee

Mayor Sirrell presented a Mayor's Award and gift to Audrey Bierhans for her service to the Mayor's Blue Ribbon Cemetery Committee. Audrey accepted the award and gift with thanks and appreciation.

3. John T. Sullivan, Planning Board member

Mayor Sirrell presented a Mayor's Award and gift to John Sullivan for his 35 years of service to the City of Portsmouth, 20 as a School Board member and 15 as a member of the Planning Board. John accepted the award and gift with thanks and appreciation.

4. Rosemary York, RSVP Mayor's Office Volunteer

Mayor Sirrell announced that Rosemary York was unable to be here for the meeting but she has a Mayor's Award and gift for Rosemary for her years of service as a RSVP volunteer in her office.

5. Joan Castro, RSVP Mayor's Office Volunteer

Mayor Sirrell presented a Mayor's Award and gift to Joan Castro for her years of service as a RSVP volunteer in her office. Joan accepted the award and gift with thanks and appreciation.

6. Robin McIntosh, Chair of Citywide Neighborhood Committee

Mayor Sirrell presented a Mayor's Award and gift to Robin McIntosh for her dedication and service to the Citywide Neighborhood Committee. Robin accepted the award and gift with thanks and appreciation.

7. Barbara Massar, Executive Director of Pro Portsmouth

Mayor Sirrell presented a Mayor's Award and gift to Barbara Massar for her dedication and service as the Executive Director of Pro Portsmouth. Barbara accepted the award and gift with thanks and appreciation.

### **PROCLAMATION**

1. First Night Portsmouth 2006 (Not on agenda)

Assistant Mayor Grasso read the Proclamation in recognition of First Night Portsmouth 2006. Mayor Sirrell presented the proclamation to Barbara Massar who thanked Mayor Sirrell and the City Council for this recognition.

### **PRESENTATIONS**

1. Poet Laureate

Nancy Hill and Mimi White invited the City Council and City Council elect members to participate and explore the theme in poetry "What is Home" project.

2. Melanson, Heath & Company, P.C. Auditors' Financial Report for the Year Ending June 30, 2005

Scott McIntyre reviewed the financial report for the year ending June 30, 2005 with the City Council. Scott reviewed the financial statements and the new aspects of the report with the City Council.

## **V. PUBLIC COMMENT SESSION**

There were no speakers this evening.

## VI. PUBLIC HEARING

### A. RESOLUTION AUTHORIZING A BOND ISSUE OF UP TO FIFTEEN MILLION DOLLARS (\$15,000,000) FOR THE CONSTRUCTION OF A PUBLIC PARKING FACILITY

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

City Manager Bohenko discussed the history of the project and the work done by the Economic Development Commission on this project over the last 7 years. He requested Dana Levenson, Chair of the Economic Development Commission to come forward and discuss the Commission's view on this project.

Dana said that the City Council is being asked to take the next step, which is to approve the Resolution and move forward with the construction of the public parking facility. He said that the City Council needs to determine if this would be an asset to the City and has the financial pro-forma's showed that this bonding will be paid back without major impact to the taxpayers. He reported that the Economic Development Commission feels that the answers to these questions are resoundingly yes. He said the bottom line is that this is a project that deserves the City Council's positive vote.

City Manager Bohenko spoke to the exhibits provided to the City Council. He announced that all of these items and the Joint Development Agreement are available on the City's website. He advised the City Council that this would require a two-thirds vote for passage of the Resolution. He reported on our debt limit and that we have a AA bond rating. He addressed the pro-forma's and the addition of the pro-forma D that includes operating costs for the garage. He advised the City Council that economic analysis by the City's Independent Consultant Robert Crawford; estimates new property taxes to be \$750,000 a year in addition to the other economic benefits that will accrue to the Central Business District. City Manager Bohenko advised the City Council that we have been conservative in our figures with the pro-forma's. He said the net positive to the bond in this format over 20 years would be more than \$15 million dollars.

Peter Bresciano, Portsmouth resident, spoke in favor of the Resolution. He said that the City Council cannot tie this project into the sewer treatment plant. He said that there are many issues the City needs to consider when discussing a secondary treatment plant.

Jennifer Slade, Portsmouth business owner, spoke in support of the Resolution and the positive impact it would have on downtown businesses. She urged the City Council to support the Resolution and its passage this evening.

Kelly Whalen, Portsmouth resident, spoke in favor of the Resolution and our need for additional parking and a conference center in the City.

Tom Nies, Portsmouth resident, thanked City Manager Bohenko for preparing pro-forma D on operating costs. He said the agreement is not a certainty that the lease spaces will increase by 5% each year.

Jan Barker, spoke on behalf of Fred Coker in support of the Resolution and creation of a conference center and parking facility. Mr. Coker feels that this development will create jobs and revenues for the City and any economic project that achieves these things is worth serious consideration.

Angela Carter, Portsmouth resident, spoke in support of the Resolution. She said that she has reviewed the pro-forma's and they have been prepared with conservative numbers, which means that these revenues could be much greater. She urged the City Council to adopt the Resolution.

Rich Coombs, Portsmouth resident, thanked the City Council and City Manager Bohenko for their work on this project. He said there are many benefits to this Resolution and parking facility. He said the pro-forma's are very conservative and feels the City will receive a surplus of over \$20 million dollars over 20 years. He requested that all surpluses be put back into the infrastructure and urged the City Council to vote in favor of the Resolution.

James Sherry, Portsmouth resident, spoke in favor of the Resolution and said that this is a fantastic opportunity for the City and urged the City Council to adopt the Resolution.

Attorney Tom Keane, representing Ocean Properties, said that Ocean Properties is not opposed to the development and expansion of the Sheraton, they are opposed to using public tax dollars to fund the parking facility. He questioned why the taxpayers must subsidize this project. He said that the developer should be responsible for building the parking facility. He said that their experts have reviewed the City's pro-forma's and do not agree that the City will make money on this project and they believe the City will lose tax revenue. He said that there are many questions the City Council needs to consider when voting on this matter. He reported that there is no public benefit to the taxpayers with this project. He said that the public has a right to have all of their questions answered before a vote is taken by the City Council.

Simeon Jarvis, City Clerk Barnaby read a letter of support for the proposed bond issue for the parking facility. Mr. Jarvis indicated in his letter that now is the time for this venture to take place and it will elevate our community to the next level of where the City aspires to be.

Craig Seymour, RGT Associates, said that there is a great deal of information provided in pro-forma D and it should be analyzed before a vote is taken by the City Council. He said that the debt service assumptions are at 4%, and those rates will go up. It is important for the City Council to consider the effects of an increase in rates. He questioned placing all of the tax revenues towards the construction of the facility.

Richard Ade, representing Ocean Properties, said that they are not opposed to the Sheraton expansion but the use of public funding to build the parking facility. He expressed concern as to whether or not there would be enough traffic to utilize the parking facility. He said that they are estimating that the City would lose approximately \$4 million dollars of taxpayers money. He said that pro-forma D needs further analyses by the City Council and this project will not be self-supporting.

Sean Tenant, Portsmouth resident, said that this is a great project for the City and the seacoast area. He urged the City Council to support the project and adopt the Resolution.

Dick Ingram, President of the Chamber of Commerce, spoke in support of the project and the Resolution. He said this is the right location for this facility and urged the support and adoption of the Resolution by the City Council this evening.

Attorney Malcolm McNeill, representing HarborCorp, said that the City Council needs to consider the public process followed thus far with this project. He said that Ocean Properties is trying to stifle legitimate business competition. He said that this has been a long and transparent public process. He indicated that the Economic Development Commission for the last 7 years has reviewed the project. He reported that there is a public and private need for this project. He said that Ocean Properties has actively and aggressively tried to squeal and stifle the development of other hotels. He cited the use of public funding by Ocean Properties for a development project they had in Florida. He said how could Ocean Properties be opposed to the use of public funding here, when they used it to their advantage for a project they had in Florida. He said it is important to note that there are still land use approvals necessary and this debate will continue as well as the process.

Sherry Young, representative of HarborCorp., spoke in support of the Resolution. She said that the conference center would bring new business and tourist to the area. She said that this project provides a great opportunity to the City and its downtown. She urged the support of the City Council and the passage of the Resolution.

Steve Barndollar, Portsmouth resident, questioned the location and number of spaces generated by this project. He said that the northern tier would be developed whether this project moves forward or not. He questioned the revenue projections provided. He expressed concern with a public partnership with this project. He asked the City Council to ask for a guarantee for any revenue short falls. He said that the project should be tax neutral.

Chris Howard, representing Ocean Properties, said that his firm focuses on municipal finance. He said Ocean Properties is not the issue this evening. He said that the City Council needs to decide if this project serves as a public benefit. He urged the City Council to analyze all the information provided prior to making their decision. He said he does not agree that the process has been transparent as indicated by Attorney McNeill. He said the issue at hand is with the parking facility and whether it will place a burden on the taxpayers.

Nathan Tenant, Portsmouth business owner, spoke in support of the Resolution. He provided a copy of a petition in support of the conference center and the parking facility signed by residents and business owners in the City of Portsmouth.

Paul Young, Portsmouth business owner, read a brief statement from Lisa DeStefano in support of the Resolution and the parking facility. The letter indicated that this project has a tremendous public benefit and urged the support of the City Council. Mr. Young extended his support for the project and urged the City Council to follow the recommendations outlined by the City staff. He said that there has been a great deal of review and study on this project.

Kevin McLeod, Portsmouth resident, said that this is not a subsidized project. He said that the City Council has been provided with information showing that this project will have a positive cash flow. He said that the conference center needs a parking facility and without the parking facility there will be no conference center.

Steve Griswold, HarborCorp., said he is honored to be in this agreement with the City. He said it is a pleasure to watch the process for this project. He said that he disagrees with the numbers provided by Ocean Properties but trusts the numbers provided by the City and its staff. He urged the City Council to support the Resolution and the ongoing partnership with the City.

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

Councilor Pantelakos moved to suspend the rules in order to take up Item VIII. B. – Adoption of Resolution Authorizing a Bond Issue of up to Fifteen Million Dollars (\$15,000,000.00) for the Construction of a Public Parking Facility. Seconded by Assistant Mayor Grasso and voted.

- B. Adoption of Resolution Authorizing a Bond Issue of up to Fifteen Million Dollars (\$15,000,000.00) for the Construction of a Public Parking Facility

Councilor Pantelakos moved to adopt the Resolution to authorize bonding of up to fifteen million dollars (\$15,000,000.00) for the public parking facility. Seconded by Assistant Mayor Grasso.

Councilor Pantelakos said it is insulting that Ocean Properties has come here this evening making it seem that the City Council has not reviewed the materials and the City staff has not provided correct information. She urged the City Council to support the Resolution.

Councilor Hynes said that it is upsetting that Ocean Properties is here at the last minute questioning our financial figures. He said that this is a desperate attempt by Ocean Properties to stop this development.

Councilor St. Laurent said all taxpayers have a right to express and discuss their opinions. He said that the City Council needs to listen to everyone whether you agree or disagree with what they are saying.

Councilor Whitehouse expressed his concern with the impact this project and future development may have on our wastewater treatment plant.

Assistant Mayor Grasso spoke in support of the Resolution and said the water and sewer needs are separate from the parking facility.

Councilor Ferrini said he has reviewed this matter when he served on the Economic Development Commission. He said that this is in the best interest of the City and he would support the Resolution and the project.

Councilor Marchand said all questions are important. He said that he supports the project and the Resolution. He thanked all sides for providing information relative to this matter.

Councilor St. Laurent said that a great deal has been put into this project and maybe we should take more time to review the figures.

Mayor Sirrell passed the gavel to Assistant Mayor Grasso.

Mayor Sirrell said that this was a very open meeting and everyone was allowed an opportunity to speak this evening. She said that the City Manager has provided all of the information relative to this matter to everyone. She spoke in support of the project and the Resolution. She said that the Sheraton is a good partner.

Assistant Mayor Grasso returned the gavel to Mayor Sirrell.

Councilor Whitehouse asked if there was no conference center what obligation would there be. City Attorney Sullivan said if the conference center is not built no parking would be provided to HarborCorp.

On a roll call vote 8-1, motion passed. Assistant Mayor Grasso, Councilors Ferrini, Marchand, Pantelakos, Hynes, Raynolds, Whitehouse and Mayor Sirrell voted in favor. Councilor St. Laurent voted opposed.

At 9:45 p.m., Mayor Sirrell called a brief recess. Mayor Sirrell called the meeting back to order at 10:05 p.m.

Mayor Sirrell passed the gavel to Assistant Mayor Grasso.

## **VII. APPROVAL OF GRANTS AND DONATIONS**

- A. Acceptance of Donation to the Cemetery Committee
- The Judd Gregg Committee - \$100.00

Mayor Sirrell moved to approve and accept the donation to Cemetery Committee as listed. Seconded by Councilor Whitehouse and voted.

- B. Acceptance of Donation to the New Library Building Fund (Not on agenda)
- The Donald H. Sargent Trust - \$1,000.00

Mayor Sirrell moved to approve and accept the donation to the New Library Building Fund as listed. Seconded by Councilor Pantelakos and voted.

Assistant Mayor Grasso returned the gavel to Mayor Sirrell.

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

- A. First reading of Ordinance amending Chapter 1, Article II, by the addition of Section 1.2 – Political Contributions to City Council Candidates

Councilor Whitehouse moved to pass first reading, as submitted, and hold a public hearing and second reading at the January 23, 2006 City Council meeting. Seconded by Councilor St. Laurent.

Councilor Whitehouse asked if anyone receives a donation less than \$100.00 would they need to report it. City Attorney Sullivan said that if total donations exceed \$100.00 you would need to report it. If the donations are less than \$100.00 you would need to sign a document stating that fact.

Mayor Sirrell said she felt it was necessary to have this ordinance drafted because there was so much discussion on how much money was raised for the City Council race this year.

Councilor Hynes expressed concern about the individual that makes a donation and wants to remain anonymous.

City Attorney Sullivan said that this is a proposed ordinance and changes may be made at second reading.

Councilor Marchand expressed his support for the ordinance. He said that the \$100.00 is a trigger mechanism.

Councilor Raynolds expressed concern that this ordinance may cause some individuals to not contribute towards a campaign because of the reporting mechanism.

Councilor Ferrini said he supports this, but would ask that the City Council be provided a copy of the statement they would need to sign in their packet for the January 23, 2006 City Council meeting.

Mayor Sirrell passed the gavel to Assistant Mayor Grasso.

Mayor Sirrell said that she is concerned with candidates taking funds from developers and the people have a right to know where the money is coming from.

Assistant Mayor Grasso returned the gavel to Mayor Sirrell.

Councilor Marchand moved to amend the ordinance to include the reporting of self-funding. City Attorney Sullivan suggested that any amendments to this ordinance by a City Councilor take place at second reading. He urged any City Councilors that have suggested amendments to provide them to him and he will make the necessary changes for the next City council meeting.

Councilor Marchand withdrew his motion.



Motion passed.

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

- A. Letter from Wendy L. Noyes, AIDS Response Seacoast, requesting permission to hold the 10<sup>th</sup> Annual Seacoast AIDS Walk and Dog Walk on Sunday, May 7, 2006 from 10:00 a.m. to 5:00 p.m.

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

Councilor Whitehouse expressed concern with this event being held the same day as Children's Day. City Manager Bohenko said he would review each event to ensure that there are no conflicts.

Motion passed.

- B. Letter from Dick Ingram, President Greater Portsmouth, requesting permission to hold the 11<sup>th</sup> Annual Harbour Trail Road Race on Saturday, July 8, 2006 from 7:30 a.m. to 11:00 a.m.

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

- C. Letter from Attorney Kenneth D. Murphy, President Prescott Park Arts Festival Board of Directors, requesting to be considered as a tenant/user of the Children's Museum space

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

Councilor Whitehouse moved to suspend the rules in order to continue the meeting beyond 10:30 p.m. Seconded by Councilor Pantelakos and voted.

- D. Letter from Shaun Rafferty in support of the passage of a City Ordinance requiring candidates to disclose their campaign finances

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

- E. Letter from William and Kristina Campbell requesting that a gate be installed in the Dunlin Way neighborhood to stop unnecessary traffic

Councilor Pantelakos moved to refer to the Traffic & Safety Committee. Seconded by Councilor Ferrini and voted.

**X. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

**A. CITY MANAGER**

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

City Manager Bohenko said that this is an annual request to renew the lease for the Creek Athletic Club for one year.

Councilor St. Laurent moved to authorize the City Manager to extend the Lease with Creek Athletic Club for the property at 251 Bartlett Street for a period of April 1, 2006 through March 31, 2007. Seconded by Councilor Whitehouse and voted.

Councilor Pantelakos expressed concern with allowing private clubs the use of City buildings. City Manager Bohenko said if there is a concern with this lease for the future the City could review the lease and provide a notice to the occupants that we are not renewing the lease next year.

Mayor Sirrell passed her gavel to Assistant Mayor Grasso.

Mayor Sirrell expressed concern with renewing this lease.

Assistant Mayor Grasso returned the gavel to Mayor Sirrell.

2. Three Month Extension Poco Diablo, Inc.

City Manager Bohenko said this is a request to extend the lease for 3 months.

Councilor Whitehouse moved to extend the Poco Diablo Deck Lease for three months under the same terms of the existing lease. Seconded by Councilor St. Laurent and voted.

3. Proposed Rent Abatement Community Council of Senior Citizens

City Manager Bohenko advised the City Council that the Community Council of Senior Citizens will be closing in February, 2006 and has asked the City to forgive the rent for the last two months.

Assistant Mayor Grasso moved to authorize the City Manager to forgive rent for the Community Council of Senior Citizens for the month of December 2005 and January 2006. Seconded by Councilor Ferrini.

Mayor Sirrell passed the gavel to Assistant Mayor Grasso.

Mayor Sirrell asked how much space would be available in that area. City Manager Bohenko responded that there would be three offices.

Assistant Mayor Grasso returned the gavel to Mayor Sirrell.

Motion passed.

4. Reappointment of David Holden to the Greater Portsmouth Transportation Management Committee (GPTMA)

City Manager Bohenko requested that the City Council approve the reappointment of David Holden, Planning Director to the Greater Portsmouth Transportation Management Committee.

Assistant Mayor Grasso moved to appoint David Holden as the City's representative to the Greater Portsmouth Transportation Management Committee. Seconded by Councilor Whitehouse and voted.

**B. MAYOR SIRRELL**

1. Appointments

The City Council considered the reappointment of Jameson French to the Trustees of Trust Fund. The City Council will vote on this appointment at the January 23, 2006 City Council meeting.

Assistant Mayor Grasso moved to appoint Michael Murray to the Economic Development Commission until October 1, 2009. Seconded by Councilor Whitehouse and voted.

Councilor St. Laurent moved to reappoint Charles LeBlanc to the Zoning Board of Adjustment until December 1, 2010. Seconded by Assistant Mayor Grasso and voted.

Assistant Mayor Grasso requested that references for Boards and Commissions not include city staff members. Mayor-Elect Marchand requested that City Clerk Barnaby add a statement prohibiting the use of city staff members as references on Boards and Commission applications.

Mayor Sirrell announced that she has received a resignation from Ken Smith from the Planning Board. Ken is resigning as he was elected to the City Council.

Councilor Ferrini moved to accept with regret the resignation of Kenneth Smith from the Planning Board and as the representative of the Planning Board to the Historic District Commission. Seconded by Assistant Mayor Grasso and voted.

**C. COUNCILOR HYNES**

1. Traffic & Safety Committee Action Sheet and Minutes of the December 8, 2005 meeting

Councilor Hynes moved to approve and accept the action sheet and minutes of the December 8, 2005 Traffic & Safety Committee meeting. Seconded by Councilor Ferrini and voted.

2. Parking Committee Action Sheet and Minutes of the December 8, 2005 meeting

Councilor Whitehouse moved to approve and accept the action sheet and minutes of the December 8, 2005 Parking Committee meeting. Seconded by Councilor Marchand and voted.

City Manager Bohenko announced a 1 year pilot program that the City is instituting for snow emergency parking bans. He reported the Parking Department will issue residents a sheet with 10 coupons that allows them to park in the parking garage when a snow emergency is declared for a fee of \$3.00. The resident must remove their vehicle from the garage within 2 hours after the snow emergency has ended. He advised the City Council that the coupons would be numbered for tracking purposes. Councilor Whitehouse thanked City Manager Bohenko for developing this program.

**XII. MISCELLANEOUS/UNFINISHED BUSINESS**

Mayor Sirrell presented Councilor St. Laurent with a clock on behalf of the City Council for his years of service on the City Council.

Mayor Sirrell said that she would miss the people and kids that she has interacted with over the years as Mayor. She told the City Council to remember that they are only as good as the City Manager that stands beside them.

Councilor Whitehouse said that Councilor St. Laurent is one of the finest elected officials and he will miss serving with him.

City Manager Bohenko said that Councilor St. Laurent has always been a gentleman to deal with and wishes him the best in his future endeavors.

Councilor St. Laurent thanked the City Council for their kind words. He said that this was difficult and that he does not want to leave the City Council. He thanked the people that voted and helped as observers during the recount. He said he would miss being a City Councilor and serving the City.

**XIII. ADJOURNMENT**

At 10:55 p.m., Councilor St. Laurent moved to adjourn. Seconded and voted.



Kelli L. Barnaby, CMC  
City Clerk