

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, APRIL 16, 2007

PORTSMOUTH, NH
TIME: 7:00PM [or thereafter]

At 6:00 p.m., The City Council held a work session with the Legislative Delegation to discuss the following items:

- The New Hampshire Retirement System
- The Pease Development Authority and The Port
- Education Funding

I. CALL TO ORDER

Mayor Marchand called the meeting to order at 7:15 p.m.

II. ROLL CALL

Present: Mayor Marchand, Assistant Mayor Ferrini, Councilors Grasso, Dwyer, Raynolds, Pantelakos, Whitehouse, Smith and Hynes

III. INVOCATION

Mayor Marchand asked everyone to join in a moment of silent prayer in memory of the students and faculty members that were tragically killed at Virginia Tech University earlier today.

IV. PLEDGE OF ALLEGIANCE

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

PRESENTATIONS

1. Presentation to Fire Chief Re: Certification

Fire Academy Director Rick Mason presented Fire Chief Christopher LeClaire with the professional designation "Chief Fire Officer" (CFO), making him one of only 506 CFOs nationwide. He advised the City Council that the Center for Public Safety Excellence's voluntary program recognizes those who demonstrate excellence in seven areas: experience, education, professional development, professional contributions, association membership, community involvement and technical competencies.

Councilor Grasso moved to suspend the rules in order to take up Items VII. A. – Acceptance of Donation to the Fire Department from Wal-Mart - \$1,000.00 and VII. B. – Acceptance of Cities Readiness Initiative Funds Grant - \$4,442.00. Seconded by Assistant Mayor Ferrini and voted.

VII. A. Acceptance of Donation to the Fire Department from Wal-Mart - \$1,000.00

VII. B. Acceptance of Cities Readiness Initiative Funds Grant - \$4,442.00

Councilor Grasso moved to approve and accept the donation to the Fire Department, as listed and further authorize the City Manager to accept the Cities Readiness Initiative Funds Grant and expend the funds from the New Hampshire Department of Health and Human Services for the purpose of operationalizing POD clinics. Seconded by Councilor Pantelakos and voted.

2. Announcement of the New Poet Laureate

Paula Rais, Co-Chair of Poet Laureate spoke to the program and advised the City Council that this will be the 6th Poet Laureate to be named. Ms. Rais asked that the Proclamation be read declaring the new Poet Laureate.

PROCLAMATION

1. Poet Laureate

Councilor Dwyer read the Proclamation declaring Elizabeth Knies the Portsmouth Poet Laureate. Ms. Knies accepted the Proclamation with thanks and appreciation. Ms. Knies also read one of her poems to the City Council.

Councilor Dwyer thanked Nancy Hill for her years of work with the Poet Laureate program as she will be retiring.

V. ACCEPTANCE OF MINUTES – APRIL 4, 2007

Councilor Pantelakos moved to approve and accept the minutes of the April 4, 2007 City Council meeting. Seconded by Councilor Smith and voted.

VI. PUBLIC COMMENT SESSION

Harold Ecker spoke to the flooding that has occurred and the water issues he faces on Banfield Road.

Assistant Mayor Ferrini moved to suspend the rules in order to take up item XI. A.4. - Report Back from Planning Board Regarding Proposed Amendments to the 1995 Zoning Ordinance – establishing a Process by which to Consider a Non-residential Planned Unit Development Type Use within an Office Research Zoning District. Seconded by Councilor Reynolds and voted.

City Manager Bohenko requested that Planning Director Holden speak to the issue. He advised the City Council that the action requested this evening would be to schedule the first reading of the proposed ordinance at the May 7, 2007 City Council meeting.

Planning Director Holden provided the City Council with the history of this issue. He reported that the Planning Board acknowledged the following points:

1. *Proposed amendments are in accordance with the City's Master Plan;*
2. *Amendments provide for increased buffering between nonresidential and residential uses;*
3. *Increases protection for residential districts by encouraging campus style and low impact development practices on larger Office Research (OR) zoned land parcels; including:*
 - *Placing structures closer to property boundary lines than is allowed today;*
 - *Requiring the placement of parking lots and loading berths to the rear of the lot;*
4. *Encourages the mixing of compatible uses and prohibits certain uses, such as outdoor entertainment; and,*
5. *Planning Board is provided with considerable flexibility*

Planning Director Holden reviewed the chronology report prepared by the Planning Department regarding the Planning Board efforts relative to the PUD-NR. He advised the City Council that public comment was sought and received through a number of forums encompassing Planning Board work sessions, public meetings and hearings. As a result, the original proposals were changed by the Planning Board by the following:

- *The proposed amendment is narrower in scope as it applies only to parcels in OR districts abutting Industrial districts (i.e., it does not apply to land in Industrial districts abutting OR districts, as in the original proposal).*
- *A new use category and definition is established for "light industry" which includes performance standards and specifically excludes all high hazard uses as defined in the Building Codes. This allows for a differentiation between light and general industrial uses that does not exist in the current Ordinance.*
- *Under the revised proposal, the only industrial uses that would be permitted in the OR district are "light industry," food processing and beverage manufacturing.*
- *Production limits are proposed for beverage manufacturing as acknowledgement that production facilities of a defined capacity are appropriate in this setting.*
- *The application for a conditional use permit must include a traffic impact mitigation plan in order to ensure that impacts on surrounding areas, particularly residential neighborhoods, are minimized.*

Councilor Whitehouse moved to schedule first reading at the next regular City Council meeting on May 7, 2007, as submitted. Seconded by Assistant Mayor Ferrini.

Councilor Dwyer said as a representative on the Planning Board she advised the City Council that the board has done a great deal of work on this ordinance, with input from the public and a number of changes have been made to the ordinance. She said one of the things that is significant about the changes is requiring early description of any projects estimating traffic generation and mitigating those.

Councilor Whitehouse inquired as to the OR District across from Elwyn Park. Planning Director Holden advised Councilor Whitehouse that there is no change to the underlining zoning district. Councilor Dwyer said that OR remains as the zoning district, but it relates to adjacencies, what is allowed there and how adjacent land is allowed to combined with land that is not OR.

Motion passed.

VII. APPROVAL OF GRANTS AND DONATIONS

- C. Acceptance of FY 2007-2008 CDBG Grant - \$672,397.00

Councilor Pantelakos moved to accept a Community Development Block Grant from the U.S. Department of Housing and Urban Development in the amount of \$672,397.00. Seconded by Councilor Whitehouse and voted.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Third and final reading of Ordinance amending Chapter 7, Article IX, Section 7.901 – Penalties, Forfeiture and Separability - increasing fines listed under Item A and F of Section 7.901 - Penalties

Councilor Grasso moved to pass third and final reading of the ordinance, as submitted. Seconded by Councilor Smith and voted.

- B. Third and final reading of Ordinance amending Chapter 7, Article XI, Section 7.1100 – Speed Limits sub-section B – Speed Limit 20 MPH by the addition of Peirce Island Road

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

- C. Third and final reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking sub-section A by the addition of Peirce Island Road: both sides of the street from most easterly access of the City pool to the access/egress of the sewer treatment plant

Councilor Pantelakos moved to pass third and final reading of the ordinance, as submitted. Seconded by Assistant Mayor Ferrini and voted.

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Renewal Request for Sidewalk Obstruction Licenses from the following businesses with no changes from last year
- Serendipity – 2 A-frame sign

(Anticipated action – move to refer to the City Manager with power)

Councilor Grasso moved to adopt the Consent Agenda as presented. Seconded by Councilor Pantelakos and voted.

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Philip Pettis, Market Square Steeple Fund, requesting permission to hold a ribbon-cutting ceremony on May 20, 2007 at the North Church from 11:30 a.m. – 2:00 p.m.

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

- B. Letter from Barbara Rita Jenny requesting permission for a sidewalk obstruction permit for a public art presentation on April 28, 2007 from 8:00 p.m. – 10:00 p.m.

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

- C. Letter from Susan Turner, Rockingham County Community Resource Network, Inc. requesting permission to hold a memorial service for friends who have died and who have suffered homelessness on May 18, 2007 at 10:30 a.m. – 12:00 p.m. at Prescott Park

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

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Planning Board Report Re: Offer of Land Located Adjacent to the Municipal Complex and off the South Mill Pond

City Manager Bohenko spoke regarding the memorandum from Planning Director Holden dated April 9, 2007. He advised the City Council that the Planning Board granted Final Subdivision Approval to Guthrie and Elizabeth Swartz of 33 Johnson Court.

Planning Board Stipulations:

- 1) *That the City Council authorize the City Manager to accept this land offer;*
- 2) *That a deed transferring ownership to the City of this parcel shall be prepared, reviewed and approved as to content and form by the City Attorney;*
- 3) *That this parcel shall be consolidated with the Municipal Complex lot; along, with the filing in the Registry of all appropriate deeds and plats; and,*
- 4) *That upon acquisition of this parcel and pursuant to Article II, Section 10-202 (B) of the 1995 Zoning Ordinance that the 2005 Zoning Map shall be hereby amended so as to include this parcel within the Municipal district.*

Councilor Pantelakos moved to accept the Planning Board's recommendations, as presented. Seconded by Councilor Hynes.

Councilor Whitehouse inquired about a right of way between the McManus property and the James property to the waterfront. City Attorney Sullivan said he feels it is not a right of way but a part of the property owned by the James'.

Motion passed.

2. Request to Adopt Resolution to Realign and Re-designate the Seacoast and Salem-Plaistow-Windham Metropolitan Planning Organizations (MPO)

Planning Director Holden reported that this resolution is intended to allow for the realignment of the Seacoast MPO along existing regional planning commission boundaries. If a sufficient number of municipalities in both counties adopt this Resolution, the Seacoast MPO would then be re-designated by the State and Federal governments into two parts – one covering the Rockingham Planning Commission region and the other the Strafford Regional Planning Commission region. At the local level, an MPO's designated planning agency is usually the appropriate regional planning commission. So, in this instance, the Rockingham Planning Commission serves two MPOs and shares its responsibilities within the Seacoast MPO with the Strafford Regional Planning Commission.

For the Seacoast MPO, while this dual arrangement has functioned, it has created issues, including the following:

- *Much duplication of effort as Seacoast MPO planning responsibilities are coordinated between two separate regional planning commissions;*
- *A large planning area causing difficulties both in coordinating MPO meetings with two sets of Commissioners and coordinating the preparation and dissemination of required work products;*
- *Dual chain of command with respect to MPO staffing; and,*
- *Differing priorities as each regional commission serves its local municipalities.*

It is anticipated, that the successful completion of this Re-designation Process would increase efficiencies for both commissions and better integrate the MPO planning process with other regional planning functions.

Councilor Smith moved to adopt the Resolution to realign and re-designate the Seacoast and Salem-Plaistow-Windham Metropolitan Planning Organizations (MPO), as presented. Seconded by Councilor Pantelakos and voted.

3. Motor Vehicle Municipal Agent

City Manager Bohenko said as the City Council is aware, Dawn Dudo has been named the City's Revenue Administrator who is replacing Colleen Franzoso, who will be retiring from the City on April 30, 2007, after 33 years with the City.

In accordance with RSA 261:74-a, "with the approval of the governing body of a city or town and subject to the direction and approval of the commissioner, the director may appoint municipal officials as agents to issue, renew or transfer motor vehicle registrations."

City Manager Bohenko said that he is recommending the City Council appoint Dawn Dudo effective May 1, 2007, as the Motor Vehicle Municipal Agent for the City of Portsmouth. Upon this appointment, he will have City Clerk Barnaby prepare a letter and submit the application on behalf of Ms. Dudo, notifying the State of New Hampshire as such.

Councilor Smith moved to appoint Dawn Dudo effective May 1, 2007, as the Motor Vehicle Municipal Agent for the City of Portsmouth. Upon this appointment, the City Clerk will prepare a letter and submit the application on behalf of Ms. Dudo, notifying the State of New Hampshire as such. Seconded by Councilor Hynes and voted.

Informational Items

1. Public Hearing on April 18th Re: FY 2008 City Budget and Press Release Re: FY 2008 Budget on City's Website

City Manager Bohenko announced on Wednesday, April 18th, the City Council will hold a public hearing regarding the FY 2008 City Budget. He said the City Council has been provided a copy of the agenda and legal notice as well as a copy of a press release regarding the proposed FY2008 City Budget on the City's Website.

2. Quarterly Report on Chamber/City Partnership

City Manager Bohenko advised the City Council at the April 6, 2007 Economic Development Commission (EDC) meeting, Marge Hubbard and Ginny Griffith, Business Development Manager of the Greater Portsmouth Chamber of Commerce, reported on tourism and business program activities respectively for the period January 1, 2007 to March 31, 2007. You will recall that these reports are part of the City of Portsmouth and Chamber of Commerce partnership for which the City Council has requested copies of the quarterly reports presented to the EDC. The reports have been provided to the City Council for reference.

3. Student Intern for Greenhouse Gas Emissions Analysis

City Manager Bohenko said the City succeeded in securing a \$3,000 grant from the Otto Fund of the New Hampshire Charitable Foundation – Piscataqua Region to hire a summer intern to assist with this work. The student internship was posted at a number of colleges and universities and several candidates were interviewed last month.

He reported that he hired James Ryan, a senior Environmental Engineering student at the University of New Hampshire with a special interest in industrial processes as well as research experience with the UNH Biodiesel Group. Mr. Ryan will begin his 30 hour per week summer internship on May 21st and his first task will be to carry out a greenhouse gas emissions inventory to determine the source and quantity of current local greenhouse gas emissions. This data will then be used to develop an action plan to reduce emissions.

Mr. Ryan will be working closely with Environmental Planner Peter Britz and under the general direction of the Deputy City Manager. Guidance for the greenhouse gas emissions analysis will also be provided from the Committee on Sustainable Practices as needed, and the Committee will be provided with periodic updates on this work.

4. Information Request Re: Peirce Estate

As requested by Councilor Chris Dwyer, a memorandum from City Attorney Robert Sullivan, regarding the Peirce Estate has been provided to the City Council.

B. MAYOR MARCHAND

1. Appointment to be Considered:
 - Gary Lowe – Alternate to Cable Television and Communications Commission

The City Council considered the reappointment of Gary Lowe as an Alternate to the Cable Television and Communications Commission. This appointment will be voted on by the City Council at the May 7, 2007 meeting.

2. Appointment to be Voted:
 - John Leith – Portsmouth Housing Authority

Councilor Whitehouse moved to reappoint John Leith to the Portsmouth Housing Authority until April 1, 2012. Seconded by Councilor Grasso and voted.

3. Update on Election Finance Ordinance

Mayor Marchand spoke to his memorandum outlining his request for an ordinance regarding the reporting of election finances.

Proposed Text for Ordinance:

Any candidate running for City Council, School Board, Police or Fire Commissions receiving a monetary contribution from any one person or entity in the amount of a cumulative total of \$100.00 or more in any calendar year must report the name of the individual, address, amount and date of contribution. The report must be filed, or updated as appropriate, with the Office of the City Clerk seven (7) days prior to any election at which that person is a candidate for any of the foregoing offices. Any contributions which would otherwise require reporting under this ordinance received within the seven days prior to the election must be submitted in a final report to the Office of the City Clerk no later than two weeks following the election.

Assistant Mayor Ferrini moved to authorize the City Attorney to draft an ordinance in substantial conformance with the form contained in the Mayor's memorandum dated April 11, 2007 for first reading at the May 7, 2007 City Council meeting. Seconded by Councilor Grasso.

Councilor Whitehouse said he does not feel it is necessary to create this ordinance and expressed his concerns with the reporting requirements.

Mayor Marchand advised the City Council that the amount to be reported could be increased or decreased.

Councilor Smith said that there is no method as part of the proposed ordinance regarding the enforcement if someone does not comply. City Attorney Sullivan said it would be part of the Code of Ethics Ordinance and there would be an enforcement mechanism drafted as part of the ordinance.

Motion passed.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Assistant Mayor Ferrini said that Portsmouth Listens has come back and will be discussing the Middle School. He reported that there will be a more formal announcement forthcoming.

Councilor Whitehouse requested that City Attorney Sullivan provide a report back to the City Council at the next meeting to advise if there is an ordinance or policy in reference to motor scooters on the road way without a handicap aerial or flag installed on the rear view of the scooter.

Councilor Raynolds announced that Sandra Dika has been selected as the Chair of the Historic District Commission to replace long time member John Rice who recently resigned from the commission.

Councilor Dwyer spoke to the recently adopted City Council Rule 47 entitled Appointments to Boards and Commissions. The rule reads as follows:

Unless otherwise required by statute or ordinance, the Mayor shall not bring forward for re-appointment to any Board or Commission the name of any person who shall have served ten (10) or more consecutive years on the same Board or Commission prior to the effective date of the requested reappointment..

Councilor Dwyer advised the City Council that the Historic District Commission will be affected by this new rule with individuals that have terms expiring in June that have served 10 or more consecutive years. She recommended that the City Council conduct a work session with the Mayor's Blue Ribbon Committee on Board and Commission Appointment Process to discuss this matter.

The City Council agreed to conduct a work session on May 7, 2007 at 6:00 p.m. with the Mayor's Blue Ribbon Committee on Board and Commission Appointment Process.

Assistant Mayor Ferrini said that he would speak with Eric Spear, Chair of the Blue Ribbon Committee on Board and Commission Appointment Process about meeting prior to the May 7, 2007 work session with the City Council to gather information and discuss this matter.

XIII. ADJOURNMENT

At 8:20 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, CMC
City Clerk