

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, JULY 16, 2007

PORTSMOUTH, NH
TIME: 6:00PM

At 6:00 p.m., a Non-Meeting with Council was held regarding Litigation – RSA 91-A: 2 I (c).

I. CALL TO ORDER

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

II. ROLL CALL

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

Absent: Mayor Marchand

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

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

PROCLAMATION

1. National Night Out

Councilor Smith read the Proclamation declaring August 7, 2007 as “National Night Out” in Portsmouth. Assistant Mayor Ferrini presented the Proclamation to Sarah Mallard who accepted it with thanks and appreciation.

2. USS Hartford Commander – Captain Brookhart and Chief of the Boat Tom Wright.

Councilor Raynolds read the Proclamation sending the Council’s thanks and very best wishes to the officers and crew of the USS Hartford. Assistant Mayor Ferrini presented the Proclamation to Captain Brookhart and Chief Wright who accepted it with thanks and appreciation.

PRESENTATION

1. Save the Old State House Committee

David Engel, Chair of the Save the Old State House Committee stated that they are in desperate need of the Council’s assistance. He stated that seven years ago Former Mayor Sirrell appointed the Save the Old State House Committee. He said, since that time, the

Committee has had over 70 meetings with regard to trying to get the original State House reconstructed in the City of Portsmouth and acquiring the funds to build it. He said that the Committee has been instrumental in getting a bronze plaque that sits in Market Square and this month another project is going to be accomplished. He stated that Public Works will be putting out four granite markers on Congress Street to show the original location of the Old State House. Mr. Engel stated that the Committee was successful in getting a \$250,000.00 grant from the Federal Government to investigate a place to put the Old State House and to look to the uses that could be put forth. He stated that because the funds could not go to the State House Committee or the City Council for handling they were turned over to the Division of Historic Resources for this project. He said the point the Committee is making tonight is that they are very disappointed that they have heard nothing from the Division of Historical Resources with regards to the sum of money which the Committee was instrumental in getting and they are almost halfway through the two years. He stated that the grant has to be spent by October 2008 and he is requesting the Council's support to contact the Division of Historical Resources stating that the City of Portsmouth wants to have the reconstruction of the Old State House here where government began for this colony and the State of New Hampshire. He requested the Council send a letter to the Division of Historical Resources asking them to come to Portsmouth to hold a work session with the Committee and see where the most desirable place would be to reconstruct the Old State House. He stated that the committee continues to go to City schools with the model of the Old State House to educate our 4th grade classes.

Councilor Dwyer stated that she has seen requests from the group in Concord seeking proposals and she is surprised to hear that they have not entertained the Committee's ideas. She requested if the Committee has put forth a plan to them for particular uses or have they sent in a proposal. Mr. Engel stated that they have asked in writing for a report as to what is going on and only received word that they are working on it. Councilor Dwyer asked if the Save the Old State House Committee has put forth a proposal on this project. Mr. Engel stated that they have been in touch with the State and talked about sites, traffic and uses, but there is no cohesiveness. He stated that they seem to listen to us and that's all. Councilor Dwyer asked if there is a specific proposal. Mr. Engel stated that there is not at present as they have been waiting for the work session to review sites.

V. ACCEPTANCE OF MINUTES – JUNE 25, 2007

Councilor Whitehouse moved to approve and accept the minutes of the June 25, 2007 City Council meeting. Seconded by Councilor Pantelakos and voted.

VI. PUBLIC COMMENT SESSION

Harold Ecker spoke on City Business. He stated that there is a good old boy program in this city regarding promotions within the Police Department. He stated that something needs to be done.

Jack Blalock spoke concerning the land conveyance between the City and DiLorenzo. He stated that this area is very congested. He stated that the City's plans for the River Walk will beautify this area for visitors and locals. He stated that this land conveyance is a positive move for Portsmouth.

Eric Spear spoke regarding the Portsmouth Middle School. He stated that he has been watching the Middle School process for four long years and was very excited to hear that the School Board voted 9-0 in favor of renovating the Parrot Avenue School. He stated that he had some questions he would appreciate answers to.

1. Why is another feasibility study needed?
2. What is the timeline for this new study?
3. Will we form a joint building committee after the study is complete?
4. How can we be assured that the new school will incorporate Portsmouth Master Plan principles like sustainability and walk ability?
5. What steps can we take to forever preserve the Jones Avenue site from development.

Rick Chellman spoke regarding the Portsmouth Middle School. He suggested that the City engage a top architectural firm to work with School Board and City Manager to get this process moving. He suggested a committee comprised of some Councilors, School Board members, City Attorney and he would volunteer his time to work on this committee. He stated that he has some architectural experience and could work with the architectural firm to move this along.

David Forman spoke concerning the Portsmouth Middle School. He questioned why the School Board was even considering Jones Avenue as a second possible site when it is in direct violation of the Covenants of the City of Portsmouth Master Plan.

Rebecca Emerson spoke regarding the Portsmouth Middle School. She requested the City Council reject the School Board's letter to do another feasibility study and not allocate any money for a study.

Tony Coviello spoke regarding the Portsmouth Middle School. He stated that the Educational Narrative does not even discuss educational needs. He stated that the narrative discusses classroom sizes and amenities and desires for the future building. He stated that we already have a feasibility study. He said that if this new study would be for a refinement to the feasibility study or an alternative analysis, he would be in favor of it.

Jerry Stow spoke regarding the Portsmouth Middle School. He said he agrees with everything stated before him. He said the Parrot Avenue site will accommodate the Middle School and we should now be addressing the how and not the if. He said we should gather around the community as our people have excellent ideas and experience. He suggested the Council gather the ideas and efforts and build a middle school that we can be proud of.

Carol Chellman spoke regarding the Portsmouth Middle School. She voiced her concern that the School Board believes they need a feasibility study. She stated that one has already been completed. She said that when you do a feasibility study, you are looking for firms that are looking for work. She stated that we want a busy firm as they are the better firms. She further stated that the letter from the School Board does not say what it intends. She said that the Council needs to be very careful how they read the letter from the School Board and what they agree to.

Heather Hurt spoke concerning the Portsmouth Middle School. She stated that the School Board letter misses the point. She said the School Board should focus on when and not if.

Allen Nelson spoke concerning the Portsmouth Middle School. He stated that the city can accommodate the Middle School at this site. He asked the Council to not allow the School Board to waste more valuable time, misuse taxpayer's money or disregard the will of the people, but to focus on how to renovate the Middle School.

Lelita Morgan spoke to the Portsmouth Middle School. She requested that there be no more feasibility studies and that the School Board move on to the next phase. She stated that good education has been taking place with some of these large resources. She further stated that duplication of resources is wasteful. She requested that City Council decline another feasibility study.

Ken White stated that Waddell & Reed are celebrating its 70th anniversary by saluting 70 top communities across America and US troops worldwide. He stated that a specially equipped Waddell & Reed truck has been outfitted with a variety of features, including computer kiosks that offer retirement planning calculators, video screens, a sound system and hospitality amenities. He stated that local financial advisors along with corporate executives will be present and will talk with clients and visitors offering financial planning tips and, in conjunction with the USO they will help provide care packages to US troops overseas as part of the USO's Operation Care Package program. He stated that the rig requires a minimum of 80 feet by 30 feet area once the rig is placed. He thanked City Manager Bohenko for helping to find a suitable location for the rig and requested approval by the Council for the event. He showed the public the packets that would be sent overseas to our troops.

Kristen Barton spoke concerning the Portsmouth Middle School. She echoed the comments from Mr. Chellman to involve building professionals and form a committee.

Councilor Grasso moved to suspend the rules in order to take up XI D – Old State House. Seconded by Councilor Pantelakos and voted.

Councilor Grasso moved that the Council endorse the efforts of the Save the Old State House Committee to find a location in Portsmouth for the reconstruction and renovation of the Old State House. Seconded by Councilor Pantelakos.

Councilor Dwyer stated that there is not enough left of the Old State House for reconstruction. She stated that since we have already scheduled a work session, it would not be appropriate for the Council to be endorsing another use until we have gone through with the work session.

She moved to table this matter until a work session is scheduled for August 6th dealing with the response to the RFP. Seconded by Councilor Smith.

Councilor Pantelakos requested if the work session for August 6th is with people interested in the Library. She stated that she thought the State House Committee did not want to be in on this work session. Councilor Dwyer stated that the proposal the Council has received proposes a particular use for elements of the State House and not a reconstructed State

House. She said we scheduled the work session so we can have that discussion. Councilor Pantelakos stated that it was her understanding that the Save the Old State House Committee did not want to engage in this work session. Assistant Mayor Ferrini stated that Councilor Dwyer has represented what she understands to be the offering of the Portsmouth Historical Society with regard to the Old Library and that they have mentioned elements of the Old State House.

Councilor Whitehouse requested that the Councilors not vote for tabling this motion. He stated this letter must be passed on.

Councilor Hynes requested why we are having all this discussion when there is a tabling motion on the floor. Assistant Mayor Ferrini stated that Councilor Hynes has effectively called the question.

Councilor Smith stated that the reason he is supporting the tabling motion is that he has not seen any documents of what the plans are suppose to be. He stated he would like to see these documents first before he endorses this letter to hold a work session.

Councilor Grasso requested the Councilors vote against the motion. She stated we are having a work session with a group who will also be talking about the Old State House in Portsmouth. She stated that the reconstruction does not mean what is in the trailer; it means to build a symbol of the Old State House. She stated that the Save the Old State House Committee has written letters to the Division of Historical Resources and have received nothing that gives them any information. She said the Save the Old State House Committee was instrumental in getting the grant that will complete its first year in October with only one more year to go. She urged the Council not to vote to table this motion.

Councilor Hynes asked if we should look at Robert's Rules of Order. Assistant Mayor Ferrini stated that Councilor Hynes has renewed his point of order.

On a roll call 5-3, voted to table the endorsing of the letter to the New Hampshire Division of Historical Resources until the work session scheduled for August 6, 2007 has been completed. Motion passed. Assistant Mayor Ferrini, Councilors Dwyer, Raynolds, Smith and Hynes voted in favor. Councilors Grasso, Pantelakos and Whitehouse voted opposed.

VII. APPROVAL OF GRANTS AND DONATIONS

A. Acceptance of Donation to the New Library Building Fund

- Scott A. & Valencia L. Wilson - \$1,100.00 – Marie Wilson Memorial Plaque (Second Payment of pledge for memorial plaque)

Councilor Whitehouse moved to approve and accept the donation to the New Library Building Fund, as listed. Seconded by Councilor Grasso and voted.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Resolution Authorizing a Bond Issue of up to Three Million Six Hundred Fifty Thousand Dollars (\$3,650,000.00) for the Construction of a New Fire Station to Replace Fire Station 2

Councilor Raynolds moved to pass first reading to authorize bonding in the amount of three million six hundred fifty thousand dollars (\$3,650,000.00) for the construction of a new fire station to replace Fire Station 2 and schedule a public hearing and adoption at the August 6, 2007 City Council meeting. Seconded by Councilor Grasso.

Councilor Raynolds stated that the project is very necessary, but requested if \$3,650,000.00 is enough.

On a unanimous 8-0 roll call, vote, motion passed.

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Donation to the Fire Fighter Monument
- Eugene C. & Diana F. Hersey - \$25.00

(Anticipated action – Move to approve and accept the donation to the Fire Fighter Monument, as listed)

- B. Acceptance of donation to the Coalition Legal Fund
- Town of Carroll - \$1,000.00

(Anticipated action – Move to approve and accept the donation as listed to be placed in the Coalition Legal Fund)

- C. Letter from Janet Bourne, Arthritis Foundation requesting permission to hold the annual Jingle Bell Run on Saturday, November 17, 2007 at 10:00 a.m.

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

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

X. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATIONS AND PETITIONS

- A. Letter from Jill Harkness, Good Vibes, Life is Good Shoppe, requesting permission to hold a Pumpkin Festival in Prescott Park on Saturday, October 20, 2007

Councilor Whitehouse moved to refer to the Trustees of the Trust Fund for a report back. Seconded by Councilor Pantelakos and voted.

Councilor Whitehouse stated that this event could attract thousands in future years. Councilor Dwyer requested to know what would happen to the pumpkins after the event is over and would they be used for animal food in some way.

Motion passed.

- B. Letter from Ken White, Waddell & Reed Financial Advisors, requesting permission to set up a specially equipped Waddell & Reed truck on Friday, August 10, 2007 from 8:00 a.m. – 7:00 p.m. to participate in supplying USO Care Packages to US troops overseas

Councilor Pantelakos moved to refer the request from Waddell & Reed Financial Advisors to the City Manager with power. Seconded by Councilor Hynes and voted.

- C. Letter from Attorney Malcolm McNeill, Jr., regarding request for a Municipal Shoreland Exemption (RSA 483-B: 12) for property at 99 Bow Street

Councilor Grasso abstained from discussion and voting on this issue. Councilor Raynolds moved to suspend the rules to allow Attorney Malcolm McNeill to speak on the issue. Seconded by Councilor Whitehouse and voted.

Attorney Malcolm McNeill stated that he is the attorney for RRJ Limited Partnership Property and this request has been specifically designed by the State to work in urbanizing areas to provide the remedy that permits development along river fronts in a manner that is consistent from the perception of the State with the Shoreland Conservation action. He stated that the Shoreline Conservation Protection Act will prohibit any building in this area for at least 50 feet back. He said that this is a State statute. He said it is very important to note that this application has received every approval of the City of Portsmouth and there are no ordinances of this community that would prohibit its use. He said it has been reviewed for nine months by the Historical District Commission, a number of months by the Planning Board and also by the Conservation Commission. He stated that in terms of it being acceptable within the city, it clearly is and has been approved by every entity. He requested the City Council authorize the Mayor to sign a memo stating they have reviewed the municipal exemption requirements of RRJ Properties Limited Partnership and that:

- It is the finding of the Portsmouth City Council that the current and past building density of the site support highly developed, urbanized activity and that the RRJ proposal is consistent with the historical uses of the site.
- The Council finds that there has been intense commercial and industrial historical usage of the development area.
- The Council further finds that the subject area is serviced by all necessary municipal and other public utilities
- The Council further finds that current municipal land use regulations affecting the property have been thoroughly reviewed by all Portsmouth regulators, and that the site fully complies with the Land Use regulations of the City of Portsmouth and that the Applicant has received all necessary municipal approvals.

He said that this is in the best interest of the city.

Councilor Pantelakos moved to authorize the Mayor to request a municipal exemption and to further authorize the Mayor to execute the request which is appended hereto for submission to the New Hampshire Department of Environmental Services and the Office of State Planning. Seconded by Councilor Smith.

Councilor Whitehouse requested if City Manager should be inserted after Mayor in the above motion. City Attorney Sullivan stated that the governing body can grant the exemption.

On a roll call 7-0 voted in favor, with Councilor Grasso abstaining. Motion passed.

- D. Request from John Tinios, Popovers on the Square, for a sidewalk obstruction license for the placement of 1 A-frame sign in front of establishment.

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

- E. Request from Daniel Fenderson, Subway, for a sidewalk obstruction license for the placement of 2 tables and 12 chairs in front of establishment.

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

Councilor Smith stated that Mr. Fenderson needs to be aware that the moving of the tables will be strictly enforced. Councilor Pantelakos asked if this would affect the Vaughn Mall stage in any way. City Manger Bohenko stated that it will enhance it.

Motion passed.

- F. Request from Airial Sillanpaa, Chrisrial & Co. Fine Jewelry, for a sidewalk obstruction license for the placement of 1 A-frame sign in front of establishment.

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

- G. Letter from Portsmouth School Board requesting an Architectural Feasibility Study for the Parrott Avenue site.

Assistant Mayor Ferrini read the letter from the School Board. Councilor Pantelakos moved to provide the necessary funds for a feasibility study. Seconded by Councilor Grasso.

Councilor Whitehouse stated that the Council heard from nine speakers tonight during the Public Comment Session and six talked about this letter from the School Board. He suggested that the Council send a letter back to the School Board requesting a clearer explanation of what they are asking. Councilor Pantelakos stated that everything she has heard says that we need architectural assistance and that is what the School Board is asking for. Councilor Smith stated that he will not support the letter. He stated that the Educational Narrative reads like a wish list and that the letter is unclear. He said that he wants the Parrott Avenue site renovated and this letter does not state that. Councilor Grasso stated that she looks at the letter as an arrow to go forward. She stated that in order to get any building funds approved, these things need to be in place prior to getting State Aid. Councilor Dwyer agreed with Councilor Grasso that we need to get this off the ground. She said the Council needs to express an intent back for what we would fund rather than send it back. She stated she wants to take the intent of this letter to be that the School Board is ready to select Parrott Avenue. She stated that the Council should use the word redesign instead of renovate. She further stated that the Council needed more information on what is needed to bond. She requested that the Council put funds forth and the City and School Board work together to form a plan that will make Parrott Avenue work.

Council Raynolds stated that he can not support a simple decision. He stated that we do not need a feasibility study. He stated that we need to move forward with an architectural firm to see how we can do this. He stated that there are several options open and we need more than the conceptual plans. He stated we need very specific plans to set bonding dollars. Councilor Raynolds suggested that a committee be formed consisting of one Councilor, one School Board member, the School Superintendent, City Manager, and one volunteer to research architectural firms to work with us on design options.

Councilor Pantelakos stated that we have an elected School Board and it is the School Board's job to choose the firms. She stated that the Council needs to make a decision and the only way is to move this along. She said that the City Council approves the bond, and the School Board makes the decision on the site.

Councilor Smith asked if the Council could amend the letter and requested to know how much this study would cost. City Manager Bohenko stated that the School Board brought this information in and the Council might think about forming a Joint Building Committee. City Attorney Sullivan stated that in situations where the School Board chooses the site, the Council bonds the money and the Joint Building Committee is set up to spend the money according to the plans of the School Board. He stated that site selection is not part of the Joint Building Committee. City Attorney Sullivan stated that he was at the last School Board meeting when this letter was discussed. He indicated that based upon his reading of the letter that if the City Council wished to respond positively to the letter, the Council would likely need to forward the letter to the City Manager and Superintendent of Schools together to determine,

in an administrative fashion, what would need to be done to advance the concept of building on Parrott Avenue.

City Manager Bohenko stated that we have used the Joint Building Committee or subset of the committee before we had the bonding in the past. He stated that this is really a tough one because the bonding amounts could range substantially for purchase of land and the alternatives. He said that his staff stands ready to give the assistance needed and would put together a scope of services requested by the School Department or City Council or a combination of both. He said that he would then encourage anyone with architectural firms that they know of to submit those names because the proposal could go out to 25-30 architectural firms. He stated that he wants to get the best person to do the job.

Councilor Smith moved to postpone this issue until the next meeting and request that the School Board provide answers the following questions:

- Is it the intent of the School Board that Parrott Avenue is the chosen site.
- Given that a site is chosen, would the School Board then require the Council provide funds for a design analysis and consideration of design alternatives.

Seconded by Councilor Hynes.

Councilor Smith stated that the Council still does not know the intent. He suggested that City Manager Bohenko and Dr. Lister, School Superintendent should meet to discuss this. Assistant Mayor Ferrini stated that Councilor Smith's first question – is it the intent that Parrott Avenue is the site is a valid question.

City Manager Bohenko stated that the Council has to look at design alternatives and potential costs. Assistant Mayor Ferrini suggested that maybe the Council should postpone this until the next meeting for an answer to Councilor Smith's question regarding the intent that Parrott Avenue is the site.

Councilor Hynes stated that the previous motion had the word postpone in it. He stated why not ask the Council to vote.

Councilor Dwyer stated that everything can be accomplished with a motion that is stated clearly and can be determined without a postponement. Councilor Pantakalos stated that she can not support a postponement. She stated that we need to get this moving. She said that the School Board wants an Architectural Study to see what the costs of a renovation would be. Councilor Reynolds stated that he would support a postponement.

Councilor Grasso called the question.

Assistant Mayor Ferrini returned the gavel to Councilor Grasso.

Assistant Mayor Ferrini stated that we do not want to get this bogged down in procedure. He said we have made it very clear to the School Board. He stated that Councilor Smith is right in wanting to get this clarity. He further stated that he would vote against a postponement.

Councilor Grasso passed the gavel to Assistant Mayor Ferrini.

On a roll call 4-4, voted to postpone this issue until the next regular meeting and request that the School Board provide the following information:

- Is it the intent of the School Board that Parrott Avenue is the chosen site.
- Given that a site is chosen, would the School Board then require the Council provide funds for a design analysis and consideration of design alternatives.

Motion failed to pass. Councilors Reynolds, Whitehouse, Smith, and Hynes voted in favor. Councilors Grasso, Dwyer, Pantelakos and Assistant Mayor Ferrini voted opposed.

Councilor Dwyer moved to amend the motion to accept that Parrott Avenue is the site and that the City Manager and School Superintendent will work on an RFP which will be circulated to the School Board and the Council. Seconded by Councilor Grasso.

Councilor Whitehouse asked the City Attorney if the Council should withdraw the motion and have a new motion made. City Attorney Sullivan stated that Councilor Whitehouse was correct. He stated that by accepting the letter we are taking no action. He said that by amending the motion the Council is calling for action. He stated therefore, the preferred alternative would be to withdraw the original motion and make the amended motion its own motion. Councilor Pantelakos withdrew her motion and Councilor Grasso her second.

Assistant Mayor Ferrini stated that we now have before us Councilor Dwyer's motion to accept that Parrott Avenue is the site and that the City Manager and School Superintendent will work on an RFP which will be circulated to the School Board and the Council.

Councilor Smith requested if this means that Parrott Avenue is the chosen site. He stated that he wants the School Board to say that Parrott Avenue is the selected site.

Assistant Mayor Ferrini passed the gavel to Councilor Grasso.

Assistant Mayor Ferrini stated that all the people involved are of good faith and the Council needs to take this on trust.

Councilor Grasso returned the gavel to Assistant Mayor Ferrini.

Councilor Reynolds stated that Councilor Dwyer's motion interprets the letter and if we pass the motion and the School Board does not agree with our interpretation it would be putting too much responsibility on City Manager Bohenko and City Attorney Sullivan to write an RFP and get firms to bid. He suggested a supplemental process where the Council would take advantage of some expertise that is out there in the community to assist City Manager Bohenko, City Attorney Sullivan and Dr. Lister, School Superintendent as well as the possibility of one School Board member and one Councilor to make it above board. Councilor Dwyer stated that by saying City Manager, she did not mean the City Manager alone. She expected the City Manager to call upon his staff, and local expertise as needed to prepare such an RFP. City Manager Bohenko said that he would want to make sure and take in firms that people

suggest, but, in the end, his staff has to follow certain procedures. Councilor Pantelakos stated that the Council has always trusted the City Attorney and City Manager in the past.

On a unanimous roll call 8-0, voted in favor to accept that Parrott Avenue is the site and that the City Manager and School Superintendent will work on an RFP which will be circulated to the School Board and the Council.

Assistant Mayor Ferrini requested a brief recess at 9:40 p.m. At 9:50 p.m., Assistant Mayor Ferrini called the meeting back to order.

- H. Letter from Sam Bennett & Alec Lager, Portsmouth Fair Trade Coalition, requesting permission to hold a benefit jazz concert and Fair Trade craft bazaar on Saturday, August 18, 2007 in the Vaughn Mall.

Councilor Raynolds moved to refer to the City Manager with power. Seconded by Councilor Grasso.

Councilor Whitehouse stated that Mr. Bennett and Mr. Lager needed to be made aware that certain types of amplification will not be tolerated.

Motion passed.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

- 1. Report Back Re: Riverwalk – Proposed Land Conveyance between the City and DiLorenzo Real Estate, LLC

City Manager Bohenko stated that on the map provided, item 1 is the land received from the city and item 2 is land received from DiLorenzo Real Estate. He stated that this action will allow the city to get started on the Riverwalk project. He stated that a lot of time and effort has been spent on this project. He stated that this exchange is essential to move this project along. He said it allows us to do a number of things in that area. He recommends approval of this request.

Councilor Grasso moved to accept the recommendation of the Planning Board and authorize the City Manager to execute the required documents for the conveyance of the property between the City and DiLorenzo Real Estate, LLC. Seconded by Councilor Dwyer.

Councilor Whitehouse requested if you transfer taxable land is a public hearing is required. City Attorney Sullivan stated that if this motion is approved it would go to the Planning Board for a sub-committee plan and public hearing. Councilor Smith stated that he will not support this motion. He stated that currently the deck is a tourist attraction. He stated that he needs a guarantee that the present trash compactor issue will be resolved. He stated that there is approximately eight tons of trash per week from that one dumpster and without this compactor; trash would have to be collected daily. He stated that there are a lot of issues that have to be resolved. He stated that he is not against moving this project forward, he just wants these

issues resolved. City Manager Bohenko stated that he does not disagree with Councilor Smith. He stated that we are not precluding the dumpster issue from being extended. He stated that if the Council does not do this exchange we will have to reevaluate the whole Riverwalk project. Councilor Dwyer stated that she wants to vote in favor. She stated that we need to move this forward. She said there are safe guards and time is moving. Councilor Raynolds agreed with Councilor Dwyer. He does not believe that Councilor Smith's concerns will be overlooked. He requested if City Manager Bohenko could prepare a time line of the process of this item. City Manager Bohenko stated that if this proceeds, his next step would be to have some design concepts for the Council to look at and there will be some timelines. He stated that he is very sensitive to the needs of the people and the area businesses.

Councilor Pantelakos stated that she can go along with this land swap. She said that she would like to see a meeting with the area businesses for them to voice their concerns for the Riverwalk. She stated that she does not want to do anything that will injure any of the businesses in the area.

Councilor Whitehouse moved to suspend the rules in order to continue the meeting beyond 10:00 p.m. Seconded by Councilor Grasso and voted.

Councilor Whitehouse stated he is concerned with the Dumpster issue as well as the November time line which will have a large effect on Poco's. He stated that Poco's will have to remove the deck and there is no way they can do this and still carry on their business. He requested if anyone has seen the handicap ramp from Bow to Ceres Street. He stated that it changes the character of that district altogether and he is and has been opposed to it.

Councilor Smith agreed with City Manager Bohenko, but wants steps that these other items will take place. He requested to know when these dollars have to be spent. City Manager Bohenko stated that if this passes, he will go to the Federal Government to extend the deadline on use of the dollars. Councilor Smith suggested going to the Federal Government prior to the lot line going to the Planning Board. City Manager Bohenko stated that he wants to make only one request to the Federal Government.

Councilor Grasso stated that she will support that the Council will agree to extend the lease on the dumpster. She stated that it is important that we do this land transfer and get that done.

Assistant Mayor Ferrini passed the gavel to Councilor Grasso.

Assistant Mayor Ferrini stated that the Council members are people of good will and that the City Council has the manner to address the sensitive issues of the dumpster and the timing of the deck for Poco's. He stated that he will support this motion.

Councilor Grasso returned the gavel to Assistant Mayor Ferrini.

Councilor Smith stated that he will trust the City Manager and vote in favor of this motion. Councilor Pantelakos asked if there will be a meeting on this issue. City Manager Bohenko stated that once preliminary plans have been completed, the Council could have a meeting with the business owners.

On a roll call 7-1, voted to accept the recommendation of the Planning Board and authorize the City Manager to execute the required documents for the conveyance of the property between the City and DiLorenzo Real Estate, LLC. Councilors Grasso, Dwyer, Raynolds, Pantelakos, Smith, Hynes and Assistant Mayor Ferrini voted in favor. Councilor Whitehouse voted opposed.

2. Report Back Re: Popover's

City Manager Bohenko stated that there have been no problems with the placement of tables and chairs.

Councilor Pantelakos moved to authorize the continuance of the relocation of the tables and chairs through the end of the year for Popover's on the Square. Seconded by Councilor Grasso and voted.

3. Request for Street Acceptance of Wholey Way.

Councilor Smith moved to refer the aforementioned matter to the Planning Department and the Public Works Department for a report back to the City Council. Seconded by Councilor Whitehouse and voted.

4. Request to Establish Public Necessity Hearing for the Route 33 Railroad Replacement Project.

Councilor Pantelakos moved to establish a public necessity hearing with respect to any property interest which the City must acquire for the Route 33 Railroad Bridge Replacement Project for the August 20, 2007 City Council meeting. Seconded by Councilor Smith and voted.

5. Acceptance of Deed Re: North Mill Pond Conservation Property.

City Manager Bohenko referred to City Attorney Sullivan for a brief synopsis of what is taking place.

City Attorney Sullivan stated that there is a map showing the exact green piece of land that will be issued here. He stated that it attaches to land purchased last year and would form a nice public park. He stated that there is a restriction that the land is kept as a park and for no other purpose, much like Pierce Island. He recommended the City Council approve this action.

Councilor Pantelakos moved to accept the deed from the Emerson and Ruth McCourt Revocable Trust and authorize the City Manager to execute all necessary documents. Seconded by Councilor Grasso.

Councilor Dwyer asked if there was a definition of “park”. City Attorney Sullivan stated that we do not. Councilor Dwyer requested if at some point we should do this. City Attorney Sullivan stated that it might be to our best interest to leave the language with a little room in there for interpretation.

Motion passed.

Informational Items

1. Municipal Election Filing Period

City Manager Bohenko stated that the Municipal filing period will commence on Monday, August 27, 2007 through Monday, September 10, 2007.

2. Busk Till Dusk

City Manager Bohenko stated that a copy of the Busk Till Dusk performance list is located in the council packet. He said the Busk Till Dusk will be held throughout the downtown on Saturday, July 21st and Sunday, July 22nd in accordance with the City Sidewalk Performers Guidelines.

Councilor Whitehouse asked if we approved the Busk to Dusk last year. City Manager Bohenko stated that they will be utilizing our street performer’s guidelines. He stated that if they have any obstructions, they have been told that they must come to the City for permits and he has encouraged them to contact him early to make this event run smoothly. Councilor Whitehouse stated that he attended last year’s event and that there didn’t seem to be any problems. Councilor Reynolds stated that he appreciates the work the City Manager has done with this event. He stated that this event comes down to a First Amendment Right of the performers to do their trade. He stated that street performers do add to the flavor of our downtown.

B. MAYOR MARCHAND

1. Appointment to be Considered:

- Brad Lown – Trustee of the Trust Fund
- Joseph Almeida – Alternate to the Historic District Commission
- Suzy Greene – Blue Ribbon Dog Committee

The City Council considered the appointment of Brad Lown to the Trustee of the Trust Fund; the appointment of Joseph Almeida as an alternate to the Historic District Commission and the appointment of Suzy Greene to the Blue Ribbon Dog Committee. These appointments will be voted on by the City Council at the August 6, 2007 meeting.

C. ASSISTANT MAYOR FERRINI

1. Rooming House Ordinance

Councilor Pantelakos moved to bring this ordinance back for first reading at the August 6, 2007 City Council meeting. Seconded by Councilor Grasso and voted.

E. COUNCILOR DWYER

1. Report from Independent Inquiry Commission (not on agenda)

Councilor Dwyer said she checked to see if the Police Commission should be reporting to the Council and it is her understanding that they should. She requested that the report from the Independent Inquiry Commission be provided to the City Council at the same time as the Police Commission on the additional investigation being required by the Police Commission.

City Attorney Sullivan stated that he was not prepared to address this issue at this meeting, but would prepare an analysis for the next meeting.

Councilor Dwyer moved to request that a report be provided to the City Council at the same time as the Police Commission of the additional investigation being required by the Police Commission. Seconded by Councilor Raynolds.

Councilor Smith asked how a personnel issue would be handled in a public setting. City Attorney Sullivan stated that the Independent Review Commission has been asked to be sensitive and the report will be formulated in such a way that it can be made available to the public. Councilor Smith stated that he will vote for this but he is very cautious about sensitivity and personnel information being released. Councilor Dwyer stated that her intention was that the Council be an audience for the Independent Review Commission and not that it be in public session.

Motion passed.

2. Recognition of Board Service

Councilor Dwyer stated that the Council has received the letter from Ellen Fineburg suggesting the City Council hold an annual event in conjunction with a regularly scheduled Council meeting for recognition of board service. She stated that she would like to build on Ms. Fineburg's suggestion. She stated that the Council has not recognized members of our boards for their service. She suggested that the Council annually recognize our boards. She suggested making it an annual report which could bring clarity to the public as to the roles the different boards have, it would acknowledge those serving on the boards, it would recognize those who have served or retired, identify anticipated vacancies and alert citizens to possible vacancies.

Councilor Dwyer moved to refer to the Mayor for a report back. Seconded by Councilor Whitehouse.

Councilor Smith agreed with Councilor Dwyer's concept. He stated that this could also give the Council the ability to recruit an individual that has left one board for a vacancy on another board. He stated that he never received an official final letter of thanks when he left the Planning Board and the Historic District Commission.

Motion passed.

3. City Recreation Fields

Councilor Dwyer stated that she would like a report on the adequacy of City-owned playing and recreation fields.

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

City Manager stated that he would meet with Rus Wilson, Recreation Director and prepare a report. Councilor Whitehouse suggested that some comparisons be made with playing and recreation fields in other cities.

Motion passed.

F. COUNCILOR RAYNOLDS

1. Green Building Costs and Financial Benefits

Councilor Raynolds stated that he supplied an article "Green Building Costs and Financial Benefits" to the Councilors for informational purposes. He stated that the article is one of the most comprehensive study he knows of.

2. Defining the Use of the Term Spot Zoning

Councilor Raynolds had previously requested the City Attorney answer a question on Spot Zoning and he thanked City Attorney Sullivan for his report. He moved to accept the written report presented by City Attorney Sullivan. Seconded by Councilor Whitehouse and voted.

G. COUNCILOR PANTELAKOS

1. Request for Funding Re: African Burial Ground

Councilor Pantelakos moved in concept to have the City Manager expend up to 50% of the cost of the African Burial Ground from UDAG funds with the remaining 50% being raised privately. Seconded by Councilor Whitehouse.

Councilor Whitehouse asked if the funds need to go through Economic Development Commission (EDC).

City Manager Bohenko stated that the way it works, it is the City Council's prerogative to use EDC funds. He said that the policy that is in place for EDC is that the Council is allowed to budget up to 75% of the earnings and if they go beyond the 75% then it needs to come back to the City Council for a waiver. Councilor Whitehouse stated that this should have been a line item in the budget. City Manager Bohenko stated that he did not know about this in advance. Councilor Grasso asked if there was a ball park amount that this might be. Councilor Pantelakos stated that there was not at this time. She said that there are four designs and each has a different dollar amount. She stated that this is just a process to get started. City Manager Bohenko stated that the Council could make the motion that it would be anticipated that we use UDAG funds and once the design has been completed and the cost known that it come back to the City Council for final approval.

Motion passed.

H. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the June 14, 2007 meeting

Councilor Smith moved to accept the action sheet and minutes of the June 14, 2007, Traffic and Safety meeting. Seconded by Councilor Whitehouse and voted.

Traffic & Safety Committee Action Sheet and Minutes of the June 28, 2007 meeting

Councilor Smith moved to accept the action sheet and minutes of the June 28, 2007, Traffic and Safety meeting. Seconded by Councilor Whitehouse and voted.

2. Parking Committee Action Sheet and Minutes of the June 14, 2007 meeting

Councilor Smith moved to accept the action sheet and minutes of the June 14, 2007, Parking Committee meeting. Seconded by Councilor Pantelakos and voted.

3. Buy Local

Councilor Smith stated that in an attempt to perpetuate local business within Portsmouth, he would like to see a policy that the Council make an attempt to look to our local firms for all city needs. He stated that he would like to see the city bank with a local bank. City Manager Bohenko stated that the city does their banking with a local Citizen's bank. He stated that the City puts out bids and in cases of a tie, the bid goes to the local company.

Councilor Smith moved to refer to the City Manager for a report back. Seconded by Councilor Whitehouse and voted.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Smith stated that he heard that the City of Portsmouth, at one time, had a Cruise

Ship Committee. He stated that he would like a committee set up to check on bringing cruise ships into Portsmouth. Councilor Reynolds stated that he believes there was a report done by Senator Clark relevant to this concerning the Port and this might be a place to start.

Councilor Smith moved to refer to the Mayor for a report back. Seconded by Councilor Grasso and voted.

XIV. ADJOURNMENT [AT 10:00PM OR EARLIER]

At 11:10 p.m., Councilor Whitehouse moved to adjourn. Seconded by Councilor Smith and voted.

Dianne M. Kirby, Deputy City Clerk