

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, AUGUST 6, 2007

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

At 6:00 p.m., a Work Session was held with the Portsmouth Historical Society regarding Re-use of the Old Library.

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

Mayor Marchand called the meeting to order at 7:30 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 observance of the Minneapolis tragedy.

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

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

### **V. ACCEPTANCE OF MINUTES – JULY 16, 2007**

Councilor Whitehouse moved to approve and accept the minutes of the July 16, 2007 City Council meeting. Seconded by Councilor Pantelakos and voted.

### **VI. PUBLIC COMMENT SESSION**

Donald Coker spoke in support of the establishment of a Blue Ribbon Cruise Ship Committee. He strongly urged the City Council to support the creation of such a committee. Mr. Coker spoke to the economic benefits of cruise ships visiting Portsmouth and its potential financial impact to the downtown businesses. He said it is important to note that it may take years to have Portsmouth scheduled as a site for cruise ships but it is necessary to move forward with a committee to start the process.

William McQuillen urged the City Council restraint in a possible referendum question for the ballot regarding the Police Commission. He said that there needs to be careful consideration in this matter. Mr. McQuillen advised the City Council that there needs to be more citizen involvement rather than less, and the Commissions provide that.

Val Pamboukes said it is regrettable the recent conflicts between the City Council, Police Commission and Police Department. He asked the City Council to leave the elected Fire Commission out of this matter. Mr. Pamboukes spoke to the success the City has enjoyed with a Fire Commission.

Mark Allinson spoke regarding the recent referral of the Planned Unit Development ordinance amendments from the Planning Board to the City Council. He advised the City Council that there continues to be a concern with the neighborhoods regarding this ordinance and a proposed Planned Unit Development in a residential area. Mr. Allinson said that an industrial use should not be located at the proposed Lafayette Road site. He urged the City Council to oppose the proposed ordinance amendments.

George Hurtt spoke to his request before the City Council this evening regarding their parking area in front of their home. He said that they would like to be able to maintain and improve the parking area. He spoke opposed to the proposed plan of the City to install curbing in front of his home. Mr. Hurtt said that he is not seeking a legal precedence, just the ability to maintain the current parking area that has existed for many years.

Heather Hurtt urged the City Council to approve their request to keep the parking area that is in front of their home. She said that the parking has been allowed for at least the last 35 years, and possibly much longer than that. Ms. Hurtt advised the City Council that the parking spaces meet the national safety standards and exceed the bump outs located on South Street. She advised the City Council that the City could save money by allowing the home owners to continue to maintain the parking area.

Carol Arrington said that she and her husband are also a part of the request with the Hurtt's before the City Council this evening relative to the parking area in front of their home. She advised the City Council that she has used this parking area for the last 35 years. She spoke to the hardships they experience during the winter months with the lack of parking. She further advised the City Council that she is in agreement with the comments made this evening by George and Heather Hurtt.

David Arrington said that he supports the previous comments made by his wife and George and Heather Hurtt. He advised the City Council that they wish to continue the present parking practice in front of their homes. Mr. Arrington informed the City Council that he has never received a parking ticket or was told it was illegal to park in this location.

Attorney Bernie Pelech, representing the Hurtt's and Arrington's parking request. Attorney Pelech advised the City Council that his clients wish to have a status quo arrangement remain for their parking areas in front of their homes. He informed the City Council that these parking areas have existed for many years and that there would be no precedence setting by granting their request. Attorney Pelech further added that if the City Council did not allow for this status quo situation it would create a financial hardship for his clients.

Nancy Emerson thanked the City Council for allowing public comment at the City Council meetings. She spoke to the recent issues facing the Police Department relative to the Rodney McQuate matter. She said that his actions were criminal and this is not a personnel matter but a criminal matter. Ms. Emerson said that Mr. McQuate should have been discharged from the department. Ms. Emerson further added that this incident has caused a stain on the entire Police Department and the Police Commission failed in its duty to the City and its residents. She requested that a public hearing be held on this matter to allow public input.

Councilor Grasso moved to suspend the rules in order to take up Item XII. C.1. – Old State House. Seconded by Councilor Pantelakos and voted.

Councilor Grasso said that the letter before the City Council is to 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.

Councilor Grasso moved to remove the item from the table. Seconded by Councilor Pantelakos and voted.

Councilor Grasso moved to 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 said if there is to be anything done with the State House it should be done in the City of Portsmouth. She suggested developing language that is not so descriptive relative to reconstruction and renovation of the Old State House. Assistant Mayor Ferrini said he is in agreement with Councilor Dwyer's comments. He said he does not want to vote for something that could tie the hands of the state. He suggested hearing comments from Mr. McConaha relative to this matter.

Councilor Whitehouse said that this letter is part of the process.

Councilor Raynolds moved to amend the motion by inserting the following language after Portsmouth to the letter as follows: *“for the original reconstruction, partial reconstruction or interpretation of the Old State House.”* Seconded by Assistant Mayor Ferrini.

City Manager Bohenko suggested just removing the word reconstruction from the letter.

Councilor Raynolds withdrew his motion and Assistant Mayor Ferrini his second to the motion.

Councilor Dwyer moved to amend the motion that the letter to Mr. McConaha at the NH Division of Historical Resources read as follows:

*As the New Hampshire Division of Historical Resources considers its next steps for the Old State House, the Portsmouth City Council requests that Portsmouth be its location.*

Motion seconded by Councilor Smith.

Assistant Mayor Ferrini moved to suspend the rules in order to allow comments from Mr. McConaha. Seconded by Councilor Whitehouse and voted.

Assistant Mayor Ferrini asked Mr. McConaha if he agreed to the language as stated by Councilor Dwyer. Mr. McConaha said that he is in agreement with the proposed language.

Amendment to the motion passed. Main motion passed as amended.

## VII. PUBLIC HEARING

### A. RESOLUTION AUTHORIZING A BOND ISSUE OF UP TO THREE MILLION SIX HUNDRED FIFTY THOUSAND DOLLARS (\$3,650,000.00) FOR FY08 REPLACEMENT OF FIRE STATION 2

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

City Manager Bohenko advised the City Council that he has been working with the Fire Department and Fire Commission on the replacement of Fire Station 2 and asked Fire Chief LeClaire to come forward to provide a brief presentation on this proposal.

Fire Chief LeClaire advised the City Council that the replacement of Fire Station 2 has been identified in the Capital Improvement Plan for the last several years. He reported that Phase I has been completed and he is looking forward to moving ahead with Phase II. Fire Chief LeClaire thanked his Building Committee members and all those that have been involved in the process. He briefed the City Council on the building assessment that was done, which revealed many deficiencies. Fire Chief LeClaire informed the City Council that the Committee would like to build a building that can be LEED Certified.

Rick Mason, Building Committee member, spoke in support of the replacement of Fire Station 2. He advised the City Council that the building is sub-standard and poses a health hazard to the employees. He addressed the work of the Building Committee and the process followed. Mr. Mason urged the City Council to adopt the Resolution for the funding of the project.

William McQuillen spoke in support of the replacement of Fire Station 2. He said that the Fire Station will be the show place and welcome point to the City from Route 1.

Rick Condon spoke in support of the replacement of Fire Station 2. He informed the City Council that he served on the Building Committee as a firefighter representative. He urged the City Council to adopt the Resolution to fund the project.

Val Pamboukes spoke in favor of the replacement of Fire Station 2. He said that the building should be environmental friendly and spoke in support of the construction of a green building. He urged the City Council to adopt the Resolution to fund the project.

Robert Padian spoke in favor of the replacement of Fire Station 2. He said that we need to provide better service to that end of the City. He advised the City Council that the current facility does not meet the current needs of the department. Mr. Padian expressed concern as to whether the funding requested is enough.

John Dussi spoke in support of the project and the replacement of Fire Station 2. He urged the City Council to adopt the Resolution in order to move forward with the project.

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

Councilor Whitehouse moved to suspend the rules in order to take up Item IX. C. - Adoption 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. Seconded by Assistant Mayor Ferrini and voted.

Councilor Grasso moved to adopt a bonding resolution 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. Seconded by Councilor Smith.

Councilor Whitehouse asked City Manager Bohenko what the length of the bond would be and how much the bonding would add to the tax rate. City Manager Bohenko advised the City Council that this would be a 20-year bond and the average impact to the tax rate would be approximately seven cents per year.

Councilor Dwyer asked what particular features would be attained for the Fire Station with a LEED Certified building. Fire Chief LeClaire said energy resources, water usage and the recycling of materials would be attained through a LEED Certified building.

Councilor Smith asked how long construction of the building would take. Fire Chief LeClaire reported approximately 10 to 11 months but he would refer to a more definitive answer from Public Works Director Parkinson.

City Manager Bohenko advised the City Council that this would be a construction management project much like the new Library.

Councilor Smith inquired as to the coverage of the area during the construction phase. Fire Chief LeClaire advised the City Council that they are working on a creative solution and looking at alternate sites for the equipment during the construction of the building. He informed the City Council that coverage would remain as it exists currently.

Councilor Reynolds said he served on the Building Committee and there is value to a LEED Certified building. He reported on the importance of energy efficiencies and indoor air quality. He advised the City Council that there are strong concerns that the bonding may not be enough to build the facility the City needs and it was discussed but it is necessary to get started with the project. Councilor Reynolds said if additional funding is necessary a request can be made at a later date.

On a unanimous roll call vote 9-0, motion passed.

Assistant Mayor Ferrini moved to suspend the rules in order to take up Item XI. C. - Letter from Attorney Bernard Pelech regarding Heather and George Hurtt and Carol and David Arrington Properties at 59 and 69 Newcastle Avenue to construct a brick parking area adjacent to the front of their respective properties which would be located in part upon the City right of way of Newcastle Avenue. Seconded by Councilor Reynolds and voted.

- XI. C. Letter from Attorney Bernard Pelech regarding Heather and George Hurtt and Carol and David Arrington Properties at 59 and 69 Newcastle Avenue to construct a brick parking area adjacent to the front of their respective properties which would be located in part upon the City right of way of Newcastle Avenue.

Assistant Mayor Ferrini moved to refer to the Traffic & Safety Committee for report back. Seconded by Councilor Grasso.

Councilor Raynolds suggested an amendment to the motion for a joint referral to the City Attorney to report back as to whether there is a legal precedence being set if the request was granted.

City Manager Bohenko said an amendment is not necessary, and the City Attorney would attend the Traffic & Safety Committee meeting when this matter is scheduled for discussion and review.

Councilor Smith said this matter would be on next month's Traffic & Safety Committee agenda.

Councilor Dwyer asked what the process is for these types of requests. City Manager Bohenko advised the City Council, in the past the City use to build the streets and install the curbing, but in the last few years we have started to seek input from the neighborhood and the residents on these projects. He informed the City Council that this process can become complicated at times in balancing the needs of the neighborhoods and what is in the best interest of the City. City Manager Bohenko spoke to the multiple meetings that have taken place with the neighborhood regarding the project.

Councilor Whitehouse said that this is a different process from the past and it is more complicated for the Public Works Department but commended the City for involving the neighborhoods and residents.

Councilor Smith reported that this matter will go before the Traffic & Safety Committee for the third time. He advised the City Council that the Traffic & Safety Committee has worked with the neighborhood on this project and will continue to do so.

Councilor Raynolds said that parking is precious in this area of the City. He suggested that the Traffic & Safety Committee consider the establishment of criteria for dealing with these types of requests. Councilor Smith advised Councilor Raynolds that the Traffic & Safety Committee is an Ad-Hoc Committee in advisory nature and these types of requests are handled on a case by case basis dealing with safety issues.

Motion passed.

## **VIII. APPROVAL OF GRANTS/DONATIONS**

- A. Acceptance of New Hampshire State Council on the Arts Grant - \$3,000.00

Councilor Pantelakos moved to accept the NHSCA grant award and authorize the City Manager to oversee its administration. Seconded by Councilor Grasso and voted.

- B. Acceptance of Donation from Andy Sherburne, Classic Curbing, Inc. of a Granite Sign for the Public Library

Councilor Pantelakos moved to approve and accept the donation of a granite sign to the new Library, as listed. Seconded by Councilor Smith.

City Manager Bohenko advised the City Council that Mr. Sherburne was unable to attend this evening as he had a previous engagement. He said that this is a large generous donation in the amount of \$25,000.00.

Motion passed.

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

- A. First reading of Ordinance amending Chapter 9 - MISCELLANEOUS PUBLIC WELFARE by the addition of a new Article VIII entitled Boarding Houses

Assistant Mayor Ferrini moved to pass first reading and schedule a public hearing and second reading at the August 20, 2007 City Council meeting. Seconded by Councilor Smith.

Councilor Whitehouse said that this is a major change and spoke regarding Section 9.803 – Terms and Conditions. He expressed concern regarding absentee landlords, and there is not a more stringent requirement mandating that a person be within 30 minutes of commuting distance from the area when there is a problem that needs to be addressed.

Assistant Mayor Ferrini reported that this ordinance was developed with the assistance of the neighborhood. He said that the focus is to require that owners of boarding houses obtain a permit annually.

City Attorney Sullivan reported that this is a new type of ordinance, and to require a property owner to live in a particular place would exceed the authority of the City Council. He advised the City Council that the notification portion of the ordinance is sufficient and if it does not work an amendment can be made at a later date.

Mayor Marchand said if issues arise from the ordinance the neighborhood can come forward and request amendments to the ordinance to address their areas of concern.

Assistant Mayor Ferrini advised the City Council that this is a high level of enforcement for the City to take. He said that Councilor Whitehouse's concerns are well taken, but we must listen to the direction provided by City Attorney Sullivan on this matter.

Councilor Dwyer asked City Attorney Sullivan if it would make sense for the City Council to require on-site management of the premises. City Attorney Sullivan said in preparing the ordinance there were meetings with the residents and lengthy discussions. He advised the City Council that the residents will appear before the City Council in strong support of the ordinance as written. He expressed concern with over reaching, and the ordinance becoming unconstitutional and unenforceable.

Councilor Pantelakos said that the City Council cannot make a requirement to have management on site. She said that the City Council should work with the ordinance as presented and see how it works.

Motion passed.

- B. First reading of Ordinance amending Chapter 7, Article III, Section 7.335 – Use of Parking Lot Item D deleted in its entirety and amending Chapter 7, Article IX, Section 7.9 – Penalties, Forfeitures and Separability amending Section 7.901 by the addition of a new Item H – 72 Hour Parking Restrictions

Councilor Smith moved to pass first reading of the amended ordinance as recommended by the Parking Committee and schedule a public hearing and second reading at the August 20, 2007 City Council meeting. Seconded by Councilor Whitehouse and voted.

## **X. CONSENT AGENDA**

### ***A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA***

- A. Acceptance of Donation to the Portsmouth Police Department for the PAL Boys Summer Basketball League
  - The Portsmouth Police Relief Association - \$300.00

***(Anticipated action – move to approve and accept the donation to the Portsmouth Police Department PAL Boys Summer Basketball League, as listed)***

- B. Letter from Gail Bradbard, Cabot House, requesting permission to close the street adjacent to the Cabot House parking lot on Saturday, September 1, 2007 for the annual Tent Sale ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Carol Welsh and Ellen Stockmayer requesting permission to hold the second annual Pan Mass Challenge Kids Ride for the NH Seacoast area on Sunday, September 23, 2007 ***(Anticipated action – move to refer to the City Manager with power)***

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



**XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Letter from John Dussi, Northern Tier Real Estate Acquisition & Development, LLC, requesting the City revoke the License Agreement for the greenhouse/solarium structure at 172 Hanover Street (The Sports Page) for proposed renovations to the building

City Manager Bohenko informed the City Council that he would recommend moving this matter to him with power. He advised the City Council that there are other matters that need to be handled before granting the request.

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

Councilor Whitehouse moved to suspend the rules in order to allow Mr. Dussi to address the City Council. Seconded by Councilor Dwyer and voted.

Councilor Pantelakos asked if Mr. Dussi intends to come back to the City Council for another license. Mr. Dussi thanked the City Council for allowing him the opportunity to address them this evening. He also thanked the City for the high level of professionalism displayed by the staff. He advised the City Council that it is his intention to bring the building back to its original form and remove the solarium and install awnings in keeping with the redevelopment of the area.

Councilor Whitehouse asked if the fees obtained from the licensing of the solarium were put in a separate fund or into the general fund. City Manager Bohenko advised the City Council that the funds were placed in the general fund.

Mr. Dussi advised the City Council that he would be seeking some kind of reimbursement for his licensing fee which he recently paid in full.

Motion passed.

City Attorney Sullivan advised the City Council that the City Manager has the authority to resolve all issues relating to the request.

- B. Letter from Mike Novak requesting permission to use the stage located at Vaughn Mall for a live acoustic performance and benefit for the NH Surfrider Foundation on Saturday, August 25, 2007 at 6:00 p.m. (*Rain date of August 26<sup>th</sup>*)

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

## **XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

### **A. CITY MANAGER**

#### **1. Acceptance of Easement Deed Re. St. John's Masonic Association**

City Manager Bohenko advised the City Council that the City is preparing to remove and replace the brick sidewalks on a portion of Middle Street. The City is also preparing to make minor improvements to the intersection of Middle Street and Miller Avenue, which will impact slightly the property of St. John's Masonic Association. In order to facilitate the City's work, St. John's Masonic Association has executed an easement deed. The easement has been prepared by the City's Legal Department and needs Council approval.

Councilor Whitehouse moved to authorize the City Manager to accept an easement deed from St. John's Masonic Association with respect to municipal sidewalk and intersection improvements. Seconded by Councilor Pantelakos.

Councilor Whitehouse asked City Manager Bohenko if this would be in writing and documented. City Manager Bohenko advised Councilor Whitehouse that was correct.

Motion passed.

#### **2. Request to Establish Public Use and Necessity Hearing Re: Bartlett/Islington Streets Sewer Separation Project**

City Manager Bohenko reported that this is a similar request to the Route 33 Bridge Replacement project. In order to proceed with the Bartlett-Islington Streets Sewer Separation Project, it will be necessary for the City Council to conduct a hearing to establish the public use and public necessity of this project. This hearing is a prerequisite to the taking of easements or other property interests by eminent domain should it become necessary to exercise that option. He advised the City Council that a 30-day notice is required therefore, the public hearing will take place at the September 17, 2007 City Council meeting.

Councilor Grasso moved to authorize the City Manager to bring forward a public use and necessity hearing with respect to property interests that the City must acquire for the Bartlett-Islington Streets Sewer Separation Project, at the September 17, 2007 City Council meeting. Seconded by Councilor Pantelakos and voted.

3. Report Back from Planning Board Re: Non-Residential Planned Unit Development Ordinance

City Manager Bohenko asked Deputy City Manager Hayden to come forward to review the proposed ordinance. Deputy City Manager Hayden reviewed the process followed by the Planning Board on this matter. She reported that there was consensus from the City Council that the Planning Board should revise the ordinance to reflect key issues raised in the discussion and previous public input. Revisions incorporated in the ordinance include expansion of the sections describing landscape buffer requirements as they relate to residential zones; clarification of dimensional requirements (setbacks), which are now in tabular form; and deletion of the section that allowed the Planning Board to waive site review requirements. The Planning Board held a work session on July 19<sup>th</sup> to discuss these revisions and, at their regular meeting that followed, voted unanimously to recommend the Council adopt the revised NR-PUD Ordinance, which is attached along with a memo from Planning Director David Holden.

Mayor Marchand declared a brief recess at 9:15 p.m. At 9:25 p.m., Mayor Marchand called the meeting back to order.

Councilor Dwyer moved to schedule a first reading for the August 20, 2007 City Council meeting with changes as recommended by the Planning Board. Seconded by Councilor Raynolds.

Councilor Dwyer said as the City Council representative to the Planning Board she would like to inform the City Council that the Planning Board addressed the concerns expressed by the Council in the recommended amendments. She urged people to read the ordinance carefully and review all the changes made. Councilor Dwyer said that this is not spot zoning; this is how gateways are designed particularly with landscape issues.

Councilor Grasso said that she would oppose the ordinance. She advised the City Council that she does not believe an industrial use belongs in a neighborhood. Councilor Grasso said that she was upset by the Planning Board members' comments that the City Council did not understand the original PUD ordinance. She said that she understood the ordinance, as did the rest of the City Council.

Councilor Pantelakos said that she will oppose the ordinance but she appreciates the work of the Planning Board, and feels the City Council needs to listen to the residents.

Assistant Mayor Ferrini spoke in support of the ordinance and said that there have been significant changes made to the ordinance, from its original form, that was previously considered by the City Council. He further stated his appreciation for the work of the Planning Board.

Councilor Hynes spoke opposed to the ordinance. He advised the City Council that he does not feel that this ordinance should have been brought back and he would oppose the motion.

Councilor Dwyer advised the City Council that this ordinance does not create an industrial zone. Deputy City Manager Hayden reported that this ordinance is about uses in a zone. She said special exceptions are easy to meet; it is the variances that are difficult. Councilor Dwyer informed the City Council that this ordinance is more restrictive than what is currently allowed in the ordinance.

Councilor Smith expressed concern relative to set backs and zone lines. He also expressed concern with waiving parking requirements. Councilor Smith advised the City Council as much as he is opposed to this, he would like to receive public comment on this ordinance. He also indicated that we need to stop piece mailing amendments to the zoning ordinance.

Councilor Raynolds said he feels that the City Council is making a mistake with debate taking place this evening on this ordinance. He said that the City Council representative to the Planning Board has indicated that the ordinance is extremely specific and gives the Planning Board discretion to deny anything. Councilor Raynolds stated that it would be a terrible mistake to not move the ordinance forward through the public process and receive input from residents.

Councilor Whitehouse said he would support the motion because he wants to hear from the residents on this matter.

Councilor Hynes said he concurs with Councilor Whitehouse and the need for public input, but he feels that the City Council was elected by the people and the City Council needs to listen to the residents and their concerns.

Assistant Mayor Ferrini said he is encouraged by the City Council and he respects the debate. He asked that the residents review the ordinance carefully.

Councilor Grasso said at the Planning Board Work Session on this matter public input was not allowed. Councilor Grasso said that the City Council needs to answer to the people of this community. She expressed concern with the City losing its residential areas.

Councilor Dwyer stated that the Planning Board is working under the Master Plan that the City Council approved. She informed the City Council that this is not rezoning a parcel but a variety of parcels.

Councilor Smith said he does not want to stop public debate, and this amendment effects 3 parcels of land in the community.

Councilor Pantelakos asked what locations this ordinance would effect. Planning Director Holden reported that the locations are Route 1 and Borthwick Avenue.

Mayor Marchand said he would vote in favor of moving this matter forward and this ordinance should be looked at as a tool.

Councilor Pantelakos said she feels that the Planning Board should have had a public hearing regarding this proposed ordinance.

On a roll call vote 7-2, motion passed. Assistant Mayor Ferrini, Councilors Dwyer, Raynolds, Whitehouse, Smith, Hynes and Mayor Marchand voted in favor. Councilors Grasso and Pantelakos voted opposed.

### **Informational Items**

#### 3. Trial Closure of Chestnut Street Begins August 1<sup>st</sup>

Councilor Whitehouse requested that the City Council receive any comments received regarding the trial closure of Chestnut Street.

#### 1. Report Back Re: Purchasing Local Vendors

Councilor Smith thanked City Manager Bohenko for the report back regarding purchasing local vendors. He asked City Manager Bohenko when the last time the City Council sent a Request for Proposals for our banking services. City Manager Bohenko said that banking services is a complex process and he hopes to get a report back to the City Council sometime in the fall regarding this matter.

### **B. MAYOR MARCHAND**

#### 1. \*Proposed Charter Amendment Re: Police Commission

Mayor Marchand said due to the recent incident at the Police Department he has received a high number of calls. He advised the City Council that many of the calls were in regards to the role of the Police Commission. The most common request was to have a public hearing on the process. Mayor Marchand informed the City Council that this is not about the incident; it is to deal with the Commission to understand their powers, roles and relationship with the City Council and City Manager. Mayor Marchand said that this provides an avenue to educate the public, the City Council and Commissions and address the residents concerns. He reported that the City Council could come up with a referendum question requiring a majority vote of the City Council with a public hearing to be held relative to the question.

City Attorney Sullivan reported that all Charter amendments would need a referendum vote. He said there needs to be 60 clear days prior to the election and the City Council needs to take action by September 6, 2007. He informed the City Council that amendments address a single topic. City Attorney Sullivan discussed the legal notice requirements for a public hearing. He suggested if the City Council wishes to move forward with this matter that a public hearing be held in 2 weeks.

Councilor Pantelakos inquired as to the language for such an amendment to the Charter. City Attorney Sullivan provided examples of questions and advised the City Council that an explanation would follow each question.

Councilor Whitehouse suggested creating a special Charter Commission rather than moving forward with a referendum question. He advised the City Council that in 2000 when a Charter Commission was created to review the existing Charter much discussion ensued regarding strengthening the Commission and adding 2 additional members.

City Attorney Sullivan reported that a Charter revision would be the consideration of more than one amendment. He reported that it would be 2 years before a Charter revision could take place.

Councilor Dwyer asked City Attorney Sullivan if the issue before the City Council is a single or multiple amendments. City Attorney Sullivan said to abolish a commission is a single amendment.

Councilor Smith asked if we are required every 10 years to establish a Charter Commission to review the Charter. City Attorney Sullivan said that the City Council is required to review the Charter every 10 years and a Commission is created. Assistant Mayor Ferrini asked if members of the Charter Commission are elected or appointed. City Attorney Sullivan reported that members are appointed by the City Council.

Councilor Pantelakos said that the City Council would need to create some kind of language for the preparation of a question for the ballot. City Attorney Sullivan said that the City Council would need to direct in detail for a Charter amendment to be drafted.

Councilor Smith expressed concern with the lateness of the evening and the discussion of this matter. He informed the City Council that he has received a number of calls but most are to leave the commissions alone. Councilor Smith suggested holding a public meeting for the commissions to explain their roles and allow for public input. He said that a Charter Commission will be established in 2010 to review the Charter, why do this now.

Councilor Dwyer said that the City Council needs the commissions to explain whether they are advocacy or oversight. The City Council needs to be clear with the role of the commissions before we formulate a desire for change. She said that we do not need another layer of advocacy between departments and the City Council.

Councilor Pantelakos said the incident that occurred is leaving a black stain on the Police Department. She said when something like this occurs it needs to come to the attention of the City Council before it appears in the newspaper.

Mayor Marchand said that a work session with the members of the commissions should be held to address the issue of advocacy versus oversight. Councilor Grasso said the work session should not be held prior to a regular City Council meeting.

Mayor Marchand passed the gavel to Assistant Mayor Ferrini.

Mayor Marchand moved to establish a work session with representatives from the Police and Fire Commissions on Monday, August 13, 2007 at 6:30 p.m. Seconded by Councilor Pantelakos.

Councilor Smith asked if the public would be allowed to provide public input at the work session. City Attorney Sullivan said there would not be public comment at the work session but the City Council can vote to allow public input.

Mayor Marchand moved to amend the motion that public comment takes place during the work session. Seconded by Councilor Pantelakos.

Councilor Dwyer expressed concern with allowing public input and personnel issues being brought forward. Councilor Smith said that it would be the responsibility of the Mayor to keep people on task and control the meeting. Mayor Marchand said that the City Council could allow public input at the end of the meeting or at another date.

Mayor Marchand moved to withdraw his amendment and Councilor Pantelakos the second to the motion.

Mayor Marchand moved to amend the motion that public comment would take place at the August 20, 2007 City Council meeting. Seconded by Councilor Pantelakos. Assistant Mayor Ferrini, Councilors Whitehouse and Smith voted opposed.

Main motion passed as amended.

Assistant Mayor Ferrini returned the gavel to Mayor Marchand.

At 10:50 p.m., Assistant Mayor Ferrini moved to suspend the rules in order to continue the meeting beyond 10:00 p.m. Seconded by Councilor Whitehouse and voted. Councilor Grasso voted opposed.

2. Resignations

- Jameson French – Trustee of the Trust Fund – effective August 15<sup>th</sup> or September 1<sup>st</sup>

Councilor Whitehouse moved to accept with regret the resignation of Jameson French from the Trustee of the Trust Fund effective September 1, 2007. Seconded by Councilor Grasso.

Councilor Smith requested that a thank you letter be sent to Mr. French for his years of service on the board.

Councilor Grasso asked when the City Council will receive the annual report of the Trustees of the Trust Fund. City Manager Bohenko said he would contact the Trustees of the Trust Fund to find out when the City Council can expect to receive the report.

Motion passed.

- Raymond Will – Planning Board – effective immediately

Councilor Dwyer moved to accept with regret the resignation of Ray Will from the Planning Board effective immediately. Seconded by Councilor Grasso.

Councilor Smith requested that a thank you letter be sent to Mr. Will for his years of service on the board.

Motion passed.

3. Appointments to be Considered:
  - Phyllis Eldridge – Trustee of the Trust Fund
  - Derek Durbin – Zoning Board of Adjustment (Alternate)

The City Council considered the appointment of Phyllis Eldridge to the Trustee of the Trust Fund and Derek Durbin as an alternate to the Zoning Board of Adjustment. These appointments will be voted on by the City Council at the August 20, 2007 meeting.

4. Appointments to be Voted:
  - Brad Lown – Trustee of the Trust Fund

Councilor Whitehouse moved to appoint Brad Lown to the Trustees of the Trust Fund until January 1, 2010. Mr. Lown is filling the expired term of Eileen Foley. Seconded by Councilor Pantelakos and voted.

- Joseph Almeida – Historic District Commission (Alternate)

Councilor Grass moved to appoint Joseph Almeida as an alternate to the Historic District Commission until June 1, 2010. Mr. Almeida is filling the expired term of Jonathan Wyckoff who was appointed as a regular member. Seconded by Councilor Pantelakos and voted.

- Suzy Greene – Blue Ribbon Dog Committee

Councilor Pantelakos moved to appoint Suzy Greene to the Blue Ribbon Dog Committee. Councilor Grasso abstained from voting. Seconded by Assistant Mayor Ferrini.

Councilor Grasso expressed concern with appointing Ms. Greene because she has only been a resident of the City for the last 6 months. She indicated that she would be abstaining from voting on this appointment.

Motion passed with Councilor Grasso abstaining from voting.

5. \*Report Back Re: Recognition of Board Services

Mayor Marchand announced that a Recognition of Board Service event will take place annually in the fall to honor those individuals that are serving on our boards and commissions and those that have resigned over the last year. Mayor Marchand advised the City Council that he would work with City Manager Bohenko to establish a date for the fall.

6. \*Report Back Re: Cruise Ship Committee

Mayor Marchand suggested that the Port Advisory Committee should be the entity to determine the establishment of a sub-committee on this matter. Councilor Pantelakos said that the Port Advisory Committee is established by the State and feels such a committee as this should be created through the City Council.



Councilor Smith said that this proposed committee is not about the Port. He said it is to set up a committee to determine which type of cruise ships or ferries could come into the City. He suggested that the committee be established with a six month sunset date to deal with specific issues such as, can we accommodate cruise ships, where would they dock, and what issues would we need to deal with, such as homeland security. Councilor Smith said that a list of criteria would need to be established.

Councilor Whitehouse expressed concern with the strong current in the river and that if this committee is established that be a consideration.

Mayor Marchand announced that he would be establishing a Mayor's Blue Ribbon Cruise Ship Committee and members will be named at the August 20, 2007 City Council meeting.

#### 7. \*Reports

Mayor Marchand said he is thrilled with the accomplishments of the Portsmouth Little League team. He also announced that National Night Out will be held tomorrow evening.

#### **D. COUNCILOR SMITH**

1. Traffic & Safety Committee Action Sheet and Minutes of the July 12, 2007 meeting

Councilor Smith moved to approve and accept the action sheet and minutes of the July 12, 2007 Traffic & Safety Committee meeting. Seconded by Assistant Mayor Ferrini and voted.

2. Parking Committee Action Sheet and Minutes of the July 12, 2007 meeting

Councilor Whitehouse moved to approve and accept the action sheet and minutes of the July 12, 2007 Parking Committee meeting. Seconded by Assistant Mayor Ferrini and voted.

Councilor Dwyer indicated that the Planning Board changed the loading zone times for the Parade Mall during the approval process and requested that the Parking Committee minutes be footnoted to reference the change. City Attorney Sullivan said based on the comments we can footnote the minutes administratively.

Motion passed.

#### **XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

Councilor Whitehouse inquired about the pay and display parking meters. City Manager Bohenko said that a machine will be present at the August 20, 2007 City Council meeting. Councilor Whitehouse said that he heard that the City of Manchester experiences problems with these meters when the temperature is below zero.

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

At 11:30 p.m., Assistant Mayor Ferrini moved to adjourn. Seconded by Councilor Whitehouse 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