

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 15, 2007

PORTSMOUTH, NH
TIME: 6:00PM [or thereafter]

At 6:00 p.m., an Anticipated “Non-Meeting” with Counsel was held regarding negotiations and litigation – RSA: 91-A:2, I (b-c) and RSA: 91-A:2, I (c).

I. CALL TO ORDER

Mayor Marchand called the meeting to order at 7:00 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.

IV. PLEDGE OF ALLEGIANCE

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

PRESENTATION

1. Legislative Update – Senator Martha Fuller Clark

Senator Clark reviewed and discussed legislation passed during the last session. She urged the City Council to contact her with any legislation they wish to see introduced for the upcoming session.

V. ACCEPTANCE OF MINUTES – OCTOBER 1, 2007

Councilor Pantelakos moved to approve and accept the minutes of the October 1, 2007 City Council meeting. Seconded by Assistant Mayor Ferrini and voted.

VI. PUBLIC COMMENT SESSION

Bert Cohen spoke in support of the Eco-Municipality Designation Resolution and urged the City Council to adopt the Resolution at the November 19, 2007 City Council meeting. He said that the Resolution has been recommended and received the support of the Sustainability Committee.

Martin Cameron spoke regarding the Westin Hotel decision by the court and said he feels that the court made the right decision.

VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to the New Library Fund
- Jerry Hejtmanek - \$5,000.00 (*Final Installment of \$15,000.00 pledge*)

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

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Resolution Authorizing the Borrowing of up to Seven Hundred and Fifty Thousand Dollars (\$750,000.00) Through the Issue of Bonds, Notes or the Execution of Lease Purchase Agreements for the Acquisition of One Fire Apparatus

Assistant Mayor Ferrini moved to pass first reading and bring back for public hearing and adoption the proposed Resolution, as presented, at the November 19, 2007 City Council meeting. Seconded by Councilor Pantelakos and voted.

- B. Third and final reading of Ordinance amending Chapter 16 by the addition of a new Article II entitled – Regulation of Discharges into Storm Water Drainage System

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

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Donation to the Coalition Legal Fund
- Town of Newington - \$2,000.00
- (Anticipated action – move to approve and accept the donation as listed, to be placed in the Coalition Legal Fund)***
- B. Letter from Majors Chester & Joy Emmons, The Salvation Army, requesting permission to place the “Christmas Kettles” in Market Square beginning November 19, 2007 through December 24, 2007 ***(Anticipated action – move to refer to the City Manager with power)***

Assistant Mayor Ferrini moved to adopt the Consent Agenda, as presented. Seconded by Councilor Pantelakos and voted.

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Request to Consider Eco-Municipality Designation Resolution (*Proposed Adoption to be acted on at the November 19th City Council meeting*)

Assistant Mayor Ferrini moved to bring back the Resolution for adoption at the November 19, 2007 City Council meeting. Seconded by Councilor Grasso.

Councilor Dwyer asked what the implications, if there are any with this Resolution. City Manager Bohenko advised the City Council that Deputy City Manager Hayden has reviewed the Resolution and it will not be detrimental and there are not relative impacts with the adoption.

Councilor Raynolds spoke in support of the Resolution and recommended its adoption by the City Council. He suggested forwarding the Resolution to the Planning Board and School Board to institute dialogue with other committees.

Motion passed.

- B. Request for the Authority to place temporary Public-Art on City property for *Overnight Art! 2008*

Councilor Smith moved to permit the installation of temporary public art on the identified city-owned properties and to authorize the City Manager to oversee the Overnight Art! 2008 installation. Seconded by Councilor Hynes.

Councilor Whitehouse said that the location on the request letter for Memorial Bridge Park (grassy area between State and Pleasant Street in front of Bridge) should be changed to read State and Daniel Street and would like the area clear for the Haymarket Square site.

Motion passed.

- C. Letter from Joel Carp Re: Creation of Tool Lending Library and Periodic Inspections by State Highway Patrol of the scrap metal trucks enter the Port of New Hampshire

Councilor Pantelakos moved to accept and place the letter on file. Seconded by Councilor Hynes.

Councilor Whitehouse said by placing the letter on file we are not acting on it and he feels it has merit. He said that the City Council should consider this and refer the letter to the Public Works Department for report back.

City Manager Bohenko said it is an interesting idea and there is a host of liability issues for the City. He advised the City Council that he would like to send the letter to our Liability Carrier to find out what our liability would be with the creation of such a program.

Councilor Whitehouse said he would like to know if any other community offers such a program.

Councilor Pantelakos said she supports the suggestion of City Manager Bohenko.

Assistant Mayor Ferrini said he understands the concerns expressed by Mr. Carp and asked if violation information is available from the State Highway Patrol regarding scrap metal trucks entering the Port of New Hampshire. City Manager Bohenko said that he would review this matter and obtain a copy of violations issued and provide a copy to the City Council.

Motion passed.

- D. Letter from Barbara Massar, Pro Portsmouth, requesting permission to hold the Tree Lighting Ceremony and Financial Support in the amount of \$1,000.00 for Production Expenses

Councilor Whitehouse moved to approve the request and authorize the expenditure of \$1,000.00 from the Contingency Fund for production expenses incurred by Pro Portsmouth for the Tree Lighting Ceremony. Seconded by Councilor Reynolds and voted.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

- 1. Request from the Fire Commission for Approval of the Memorandum of Agreement between the Portsmouth Board of Fire Commissioners and Local #1313 IAFF

City Manager Bohenko advised the City Council that this is a Memorandum of Agreement with Local #1313 IAFF regarding fire boat operations.

Councilor Grasso moved to approve the Memorandum of Agreement between the Portsmouth Board of Fire Commissioners and Local #1313. Seconded by Councilor Pantelakos.

Councilor Reynolds said he is in favor of the Memorandum of Agreement and funding the stipend and asked if there is a formal or informal means of posing a limit on the number of fire fighters that will be qualified.

Fire Chief LeClaire said 11 fire fighters are trained and said that the number could rise between 20 to 25 in the future but the City Council needs to realize that this is a complex training program. He also advised the City Council that this stipend could go away in the next session of negotiations for contracts.

Motion passed.

2. Request for a License Agreement from 82-86 Congress Street, LLC

City Manager Bohenko said that this should be changed from a request for a license agreement to an easement. The Planning Board's June 28th approval of this project included a stipulation for a City license for this awning, however, the Planning Director has indicated that the permanent nature of the awning was not discussed by the Board. Given the fact that the awning will be a permanent structure extending over City property, the Planning Director and City Attorney advised that an easement, rather than a license, would be consistent with past practice with regard to such matters. This has been communicated to Mr. McNabb and he does not have concerns with this approach.

Councilor Smith moved to refer this matter to the Planning Board for a report back. Seconded by Councilor Dwyer and voted.

Councilor Whitehouse asked if the City Manager has received comments relative to the parking area on Porter Street or Chestnut Street. City Manager Bohenko said that the City has worked with the Music Hall and told them they could not install anything permanent on the street. He advised the City Council that the items of concern by Councilor Whitehouse can be removed by the Public Works Department in an hour and the barrier removed in 10 minutes. City Manager Bohenko advised the City Council that he has not heard any comments relative to this issue and asked that he be advised of any comments received by the City Council. He also informed the City Council that the traffic patterns still need to be reviewed in the future. City Manager Bohenko said he continues to work with the Traffic & Safety Committee and Public Works Director Parkinson on the traffic study of the downtown.

Councilor Whitehouse advised City Manager Bohenko that he has received calls from residents at the Rockingham regarding the parking situation at the Music Hall. He also advised City Manager Bohenko that there is concern relative to the unloading of buses with children in front of the Music Hall. City Manager Bohenko said that he would review this matter.

Informational Items

City Manager Bohenko announced that the City Budget received the highest form of recognition in governmental budgeting for the second straight year. He advised the City Council that Portsmouth is the only community in New Hampshire to receive this award. He thanked Finance Director Belanger and City staff for their hard work and the City Council for encouraging the budget document.

Councilor Grasso on behalf of the City Council congratulated the City Manager, Finance Director and staff for the award.

City Manager Bohenko requested that City Attorney Sullivan discuss the Westin Hotel decision with the City Council. City Attorney Sullivan said over the last 10-years the City has been working towards the creation of a conference center in the downtown. In 2005 the Economic Development Commission, Planning Board and City Council on a number of occasions endorsed the concept of this with the Sheraton Hotel. He spoke to the complex Joint Development Agreement and the construction of a parking garage. He reported that the court found that the terms did not meet the interests between the City and private partnership. City Attorney Sullivan said that the City is interested in the development of a conference center. He spoke to the judgment of the court which indicated a modification was needed to the Joint Development Agreement.

B. MAYOR MARCHAND

1. Appointments to be Considered:
 - Lisa DeStefano – Reappointment to the Building Code Board of Appeals
 - Chester Keefe – Reappointment to the Building Code Board of Appeals
 - Jeffrey Landry – Appointment to the Building Code Board of Appeals
 - Carol Lincoln – Appointment to the Board of Library Trustee
 - Carla Marvin – Appointment to the Trees and Public Greenery

The City Council considered the reappointment of Lisa DeStefano and Chester Keefe to the Building Code Board of Appeals; the appointment of Jeffrey Landry to the Building Code Board of Appeals; the appointment of Carol Lincoln to the Board of Library Trustees and the appointment of Carla Marvin to the Trees and Public Greenery. These appointments will be voted on by the City Council at the November 19, 2007 meeting.

2. *Reports

Mayor Marchand announced that the Citizens for Voter Education will be conducting Candidates' Nights for those individuals running for City Council, School Board, Fire Commission and Police Commission. Candidates' Nights will be held at the Municipal Complex in the Eileen Dondero Foley Council Chambers.

- City Council Candidates' Night will take place on October 17, 2007
- School Board, Fire and Police Commissions will take place on October 24, 2007

C. COUNCILOR SMITH

1. Request to Conduct Proposed First Reading Re: 2007 Omnibus Ordinance Amendments to Chapter 7

Councilor Smith moved to bring back an Ordinance for first reading at the November 19, 2007 City Council meeting. Seconded by Councilor Pantelakos.

Councilor Smith advised the City Council that all items proposed for amendment will be reviewed during first reading at the November 19, 2007 City Council meeting.

Councilor Whitehouse informed the City Council that the proposed amendment to the taxi stand designation is being brought forward because a new parking space has been created on Pleasant Street.

Motion passed.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Dwyer suggested the creation of a committee with members from the Economic Development Commission, Planning Board and Parking Committee to review downtown parking issues. Mayor Marchand said that he would provide a report back relative to this matter at the November 19, 2007 City Council meeting.

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

At 8:15 p.m., Councilor Pantelakos 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