

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, MAY 5, 2008

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

At 6:15 p.m., a Work Session was held regarding Exchange City.

I. CALL TO ORDER

Mayor Ferrini called the meeting to order at 7:00 p.m.

II. ROLL CALL

Present: Mayor Ferrini, Assistant Mayor Blalock, Councilors Novelline Clayburgh, Dwyer, Smith, Kennedy, Spear, Raynolds and Pantelakos

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

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

PRESENTATION

1. USS NH Commissioning – Michael Stevens, USS New Hampshire Commanding Officer, and Bruce Clark, Chairman of the Commissioning Committee

Bruce Clark, Chairman of the Commissioning Committee announced that Portsmouth has been selected by the Secretary of the Navy as the location for the commissioning of the USS New Hampshire. Commander Michael Stevens informed the City Council that the Commissioning ceremony will be held on October 25, 2008 at the Portsmouth Naval Shipyard from 10:00 a.m. – 11:00 a.m.

2. Save the Old State House Committee – Dave Engel, Chair (Not on agenda)

Dave Engel Chair of the Committee informed the City Council that he had a model of the Old State House constructed and would like to donate the model to be displayed at the Library.

Councilor Smith moved to suspend the rules in order to accept the donation. Seconded by Councilor Pantelakos and voted.

Councilor Smith moved to graciously accept the donation of Mr. Engel and have the model of the Old State House displayed at the Library upon the approval of the Board of Library Trustees. Seconded by Councilor Pantelakos and voted.

V. ACCEPTANCE OF MINUTES – APRIL 16, 2008 AND APRIL 21, 2008

Councilor Smith moved to accept and approve the minutes of the April 16, 2008 and April 21, 2008 City Council meetings. Seconded by Councilor Kennedy and voted.

VI. PUBLIC COMMENT SESSION

Harold Ecker, spoke to a problem that he continues to have with water on his property created by beavers. He said he would like to have this matter taken care of and asked the City to address the problem and provide him with a means to have this issue resolved.

Russ Grazier, Art-Speak, spoke to the request before the City Council this evening from Art-Speak for funding from UDAG to partially cover the labor costs for delivery of Art-Speak services. He said that this funding request was approved last year by the City Council in the amount of \$20,000.00 which is the amount they are seeking for approval this year. He spoke to the many projects forthcoming in the future by Art-Speak and the need for funding. Mr. Grazier urged the City Council to support the request as presented.

Ellen Fineberg, Art-Speak, read a letter from Celina Adams, NH Charitable Foundation Piscataqua Region, in support of Art-Speak's funding request. The letter addressed the important voice provided by Art-Speak for the City. Ms. Adams cited the importance of Art-Speak's work and it is imperative to ensure they remain on solid footing.

Councilor Reynolds moved to suspend the rules in order to take up Item XI. A.1. – Grant Funding Request Re: Art-Speak. Seconded by Councilor Novelline Clayburgh and voted.

XI. A.1. Grant Funding Request Re: Art-Speak

City Manager Bohenko said the proposal submitted requests that the City contribute \$20,000.00 towards the ~ \$80,000.00 annual operational budget for Art-Speak. The organization pledges to obtain the remaining budget funds from foundation grants and direct fundraising. An operations grant request to the New Hampshire Charitable Foundation is currently pending.

Art-Speak's proposal describes services for the FY 2008-2009 fiscal year in accordance with the City's Master Plan and Cultural Plan. The services include participation in implementation of the Islington Street Improvement Action Plan as it relates to expanded space for cultural opportunities, participation in implementation of the Market Street Gateway Improvement Project as it relates to opportunities for murals and public art, and support for the Portsmouth Fire Department as it complies with the Percent for Art Ordinance and incorporates public art in the reconstruction of Fire Station 2.

As we discovered from the recent Arts and Economic Prosperity Study, the cultural community contributes significantly to the local economy. The proposal outlines how Art-Speak has assisted the city in implementing both the Master Plan and the percent for art ordinance. He indicated that there is value in these services because the organization has taken on responsibilities that would otherwise fall to other city staff at a higher cost to the city. He also indicated that Art-Speak continues to gain credibility in the city, state and the region for effectively advocating for and raising awareness of the local creative economy. The organization has demonstrated its ability to raise funds for Art-Speak activities such as Overnight Art which enrich our resident and visitor experience.

Councilor Novelline Clayburgh moved to approve the request for \$20,000.00 from the City's UDAG funds to partially cover the labor costs for delivery of Art-Speak service. Seconded by Councilor Raynolds.

Councilor Dwyer indicated that she would like to see a small amendment to the motion. She spoke to the number of requests received by the City for UDAG funds and how the City needs to evaluate each request carefully. She indicated that she would like to approve the request for funding with a match of funding by Art-Speak.

Councilor Dwyer moved to amend the motion that the City Council approve \$10,000.00 from UDAG funds and match dollar for dollar outside money brought in from Art-Speak up to an additional \$10,000.00 from UDAG funds. Seconded by Councilor Pantelakos.

Councilor Novelline Clayburgh expressed her support of the request by Art-Speak for the funding of \$20,000.00 from UDAG.

Councilor Raynolds spoke in support of the services provided by Art-Speak and said that we get a good return on the funding we provide them.

Councilor Novelline Clayburgh moved to suspend the rules in order to allow Mr. Grazier of Art-Speak to address the amendment made by Councilor Dwyer. Seconded by Councilor Pantelakos and voted.

Mr. Grazier spoke to the importance of the City's support of Art-Speak. He spoke to the many grants which Art-Speak applies for and said by the City's support of the request shows the organizations that the City is truly invested in Art-Speak and their programs.

Councilor Spear said he supports Art-Speak's request with or without the amendment because of their track record.

Amendment to the motion passed followed by passage of the Main motion as amended.

Assistant Mayor Blalock moved to suspend the rules in order to take up Items XI. A.2. – Report Back Re: Wamesit Place and XI. A.3. – Portsmouth Housing Authority Lease for Lafayette School. Seconded by Councilor Pantelakos and voted.

XI. A.2. Report Back Re: Wamesit Place

City Manager Bohenko said as indicated in the PHA's letter, the City provided \$300,000.00 in federal Community Development Block Grant funds to the PHA to assist the agency in purchasing Ridgewood Apartments (now Wamesit Place). Per the 1989 Agreement between the PHA and the City, the PHA must repay the greater of \$300,000.00 or 6% of the sale price if the ownership of the property changes. In that the PHA is now initiating a major renovation of this housing facility, the refinancing taking place triggers a change in ownership and, therefore, repayment. 6% of the \$7.5 million sale price of this facility would mean that the PHA repays \$450,000.00 per the 1989 Agreement. In its April 15th letter to the City Council, the PHA is requesting that the City accept the repayment of the original \$300,000.00 provided by the City as full repayment of the lesser amount will facilitate the very costly renovation of Wamesit Place.

At their meeting on April 24th, the CDBG Citizens Advisory Committee discussed the City Council's referral regarding this matter. Input was provided by PHA Executive Director Joseph Couture and Jack Peduzzi of the Northern New England Housing Investment Fund, the PHA's consultant on this development project. They indicated that funding for this much-needed rehabilitation project was very tight. They also said that the restrictions put in place by the funding sources being used to renovate Wamesit Place will require these housing units remain affordable to families earning 60% or less of the median income for a 99 year period.

The CDBG Citizens Advisory Committee voted unanimously to recommend that the City Council accept the repayment of \$300,000.00 as full repayment of the terms of the 1989 Agreement because this action would permit the \$150,000.00 otherwise due to be used to facilitate the proposed renovation of Wamesit Place and help maintain the affordability and quality of these 100 apartments for families. Further, the CDBG Citizens Advisory Committee determined that project outcomes would be consistent with the primary objective of the CDBG program, which is to benefit those earning low and moderate incomes.

Councilor Pantelakos moved to accept the report back from the CDBG Citizens Advisory Committee and authorize the City Manager to take actions necessary to implement that recommendation. Seconded by Councilor Smith.

Councilor Reynolds spoke in support of the motion. He suggested that the Housing Authority investigate providing energy efficiencies for the housing development.

Motion passed.

XI. A.3. Portsmouth Housing Authority Lease for Lafayette School

City Attorney Sullivan spoke to the lease and said that it models the concept of the 1895 Building which has and remains very successful. He said if the City Council approves the motion the City Manager will move forward with negotiating and executing a long term lease.

He outlined highlights of the anticipated lease terms as follows:

- Ownership: The City will retain ownership of the property.
- Lease Term: The City will provide a long-term (up to 99 years) ground lease to the PHA, tied to the life of the improvements. The lease will be conditioned upon the lessee continuing to provide 10 units of senior housing at affordable rents.
- Parties to the Lease: The City will lease the building to the limited partnership known as the Lafayette School Senior Apartments Limited Partnership (lessee).
- Area to be Leased: The entire building will be leased.
- Property Taxes: The lessee will be make property tax payments according to the same formula used for the Cottage Senior Housing Project.
- Construction Operations: The lease will contain provisions which insure the safety of park users during the renovation of the building and associated site work.
- Maintenance/Management: Building maintenance will be entirely the responsibility of the lessee. This includes maintaining the parking area (including snow removal and sanding on walkways and entrances), travel way and housing facility landscaping.
- Property Improvements: The lessee will be responsible for improvements to the building, parking area, and associated site improvements including landscaping. The lessee will also provide handicapped access to the building and create a one-way travel way around the building. External improvements to the building will be limited to those necessary for structural integrity and for preserving the historic character of the building. The improvements will be coordinated with the NH Division of Historical Resources. It is anticipated there will be a need for one permanent sign identifying the housing facility as well as traffic directional signs.
- Parking: The parking area will serve the park and playground and the residents of the new units. It is anticipated that 14 parking spaces will be created, 10 will be designated for residents and 4 will be available for park/playground users.
- Trash disposal: The lessee will be responsible for disposal of all trash and recyclables. No dumpsters will be located on site.
- Utilities: All utility charges will be paid by the lessee.
- Insurance: The lessee will be responsible for maintaining all standard insurance policies.

City Manager Bohenko said the rehabilitation of the Lafayette School building into a senior housing facility will complement the existing park/playground and the neighborhood, as well as meet the needs of our older residents.

Assistant Mayor Blalock moved to authorize the City Manager to negotiate and take other actions necessary to execute a lease agreement between the City and Lafayette School Senior Apartments Limited Partnership for the lease of Lafayette School for use as 10 units of senior housing. Seconded by Councilor Smith.

Councilor Dwyer asked City Attorney Sullivan how affordable will be guaranteed in the lease. City Attorney Sullivan said it would be done by following federal regulations.

Councilor Dwyer moved to suspend the rules in order to allow Mr. Peduzzi, Northern New England Housing Investment Fund to address the City Council. Seconded by Councilor Reynolds and voted.

Mr. Peduzzi informed the City Council that 7 units must be rented by families earning 50% or less of median income and the 3 remaining 60% or less of the median income.

Councilor Dwyer asked what age defines senior. Mr. Peduzzi said 62 years or older.

Councilor Kennedy asked if there are parameters for renting to Portsmouth residents. Mr. Peduzzi informed the City Council that you cannot say that the units will go to Portsmouth residents first however, the Portsmouth Housing Authority has a long list of names on a waiting list and consideration may be given to that list.

Councilor Novelline Clayburgh asked if the neighborhood has been involved in the process. Mr. Peduzzi said that the neighborhood has been involved in meetings and information has been provided to the public regarding the project.

Councilor Spear asked how the parking would be addressed. City Attorney Sullivan advised the City Council that there would be an approved site plan for parking and it would go before the Planning Board.

Assistant Mayor Blalock said that a letter has been received from the neighborhood in support of the project.

Councilor Kennedy said there would be no local funds for this project. City Manager Bohenko confirmed that no local dollars will be used for the project but there will be UDAG funds expended.

Motion passed.

VII. APPROVAL OF GRANTS/DONATIONS

A. Acceptance of Community Development Block Grant

Councilor Pantelakos moved to accept a Community Development Block Grant (CDBG) in the amount of \$646,806.00 from the U.S. Department of Housing and Urban Development. Seconded by Councilor Smith.

Councilor Dwyer asked for an explanation of the budget. Deputy City Manager Hayden advised the City Council that there are 3 revolving loan funds which are outlined in the spreadsheet for the budget and the form provided is in federal form. She spoke to the process followed by the Citizens Advisory Committee for the expenditure of the funds.

Councilor Raynolds requested a copy of the list of members that serve on the Citizens Advisory Committee.

Motion passed.

B. Acceptance of Police Department Donations

- Retired Gym Equipment from John Parker
- Police Honor Guard from P. L. Cashman - \$30.00
- Police Explorers from W.B. and P.A. Holt - \$50.00
- Police Explorers from J.M. and B.M. Mulkern - \$25.00
- Crimestoppers to Citizens' Police Academy - \$6,216.40

Councilor Novelline Clayburgh moved to approve and accept the donations to the Portsmouth Police Department, as listed. Seconded by Councilor Smith and voted.

C. Acceptance of Donation from Dan Fenderson, Subway

- 4 table-chair assembly for use in the Vaughan Mall stage area - \$4,500.00

Councilor Raynolds moved to approve and accept the donation, as listed. Seconded by Councilor Pantelakos.

Councilor Kennedy asked City Manager Bohenko if these were the types of tables and chairs we would like to see used by businesses. City Manager Bohenko said that we would prefer these types of tables and chairs.

Motion passed.

D. Acceptance of Donation to the Coalition Legal Fund

- Town of Jackson - \$1,000.00

Councilor Pantelakos moved to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund. Seconded by Councilor Kennedy and voted.

E. Safe Routes to School 2008 Grant Support Request

Councilor Reynolds moved to accept the recommendation of the Safe Routes to School Committee and authorize the City Manager to apply for funds to the New Hampshire Department of Transportation and enter into an agreement with the NH Department of Transportation and allow the City to appropriate and expend City funds to be reimbursed by NHDOT, as presented. Seconded by Councilor Spear.

Councilor Dwyer requested an explanation of priorities and feasibility of obtaining these funds. Traffic Engineer Finnigan said the project list developed is as follows:

- Travel Plan (grant requirement) for each of the 5 schools (New Franklin School, Dondero School, Little Harbour School, Portsmouth Middle School and Saint Patrick's School) (cost \$65,000.00);
- Safe Routes to School Parent and Student Survey (cost \$3,500.00);
- Safety Town (hands-on learning adventure for 5, 6, and 7 year-olds to practice life-saving safety rules) (cost \$30,000.00)
- Student Incentives and Banners (cost \$3,500.00);
- Directed patrol at each of the schools (cost \$10,000.00);
- Portable radar device (cost \$10,000.00);
- Two flashing school zone signs with radar capability for New Franklin School (cost \$16,000.00)
- Sidewalk and traffic calming for Dondero Elementary School (cost \$100,000.00); and
- Safety improvements at Lincoln and Miller Avenues (cost \$62,000.00).

She indicated that the Travel Plan for each of the 5 schools is the first priority and advised the City Council that the Committee is working towards the creation of a plan. She informed the City Council the total grant request will be \$300,000.00 and that you can seek up to \$100,000.00 per project.

Councilor Dwyer said that it is a great list of projects.

Councilor Smith said that we were not aware during the first round of grant requests that you could seek \$100,000.00 per project, therefore we only requested \$100,000.00 but we are seeking \$300,000.00 in funding for the above listed projects.

Motion passed.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

There are no items under this section on the agenda

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Dick Samuels, Water Country, requesting permission to hold a City Employee's Day at Water Country on Saturday, June 14, 2008 from 11:30 a.m. – 6:00 p.m. (rain date June 15, 2008) ***(Anticipated action – move to refer to the City Manager with power)***

- B. Renewal of Sidewalk Obstruction License with no changes from last year
 - Springers Jewelers – 1 A-frame sign***(Anticipated action – move to refer to the City Manager with power)***

- C. Request from Daniel Fenderson, Subway, requesting permission for a Sidewalk Obstruction License to place 1 A-frame sign in front of establishment ***(Anticipated action – move to refer to the City Manager with power)***

Councilor Smith moved to adopt the Consent Agenda, as presented. Seconded by Councilor Kennedy and voted.

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Chris Sterndale, Cross Roads House, requesting the use of the city's Greenleaf Recreation Center property for parking purposes during the reconstruction of Cross Roads House

City Manager Bohenko requested that the City Council authorize him to enter into a license agreement with Cross Roads for the parking request to use the Greenleaf Recreation Center property during the reconstruction of Cross Road House.

Councilor Pantelakos moved to authorize the City Manager to negotiate and execute a license agreement for the use of the property. Seconded by Councilor Dwyer.

Councilor Novelline Clayburgh advised the City Council that there are many organizations that use the Greenleaf Recreation Center and asked that the individuals not be allowed to park in front of the building because some of the groups using the facility are disabled and need access to the building.

Councilor Smith asked if this request has been considered by the Recreation Board. City Manager Bohenko advised the City Council that he has discussed the matter with Recreation Director Wilson. He said that a plan will be created outlining where individuals would be permitted to park during the license agreement. City Manager Bohenko also indicated that the license agreement will allow the City to cancel the arrangement with a 48-hour notice to Cross Roads.

Motion passed.

- B. Letter from Peter Ames, American Cancer Society, requesting permission to hold a Health Care Access Event on Monday, May 19, 2008 at the Vaughan Mall from 4:30 p.m. – 7:00 p.m. and to park the Fight Back Express bus at the Worth Lot

City Manager Bohenko informed the City Council that the organization originally requested use of Market Square and staff informed them that the Vaughan Mall would be a more appropriate location.

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

Councilor Smith asked if the request should be considered by the Parking Committee. City Manager Bohenko said the request was not referred to the Parking Committee because it ultimately required the approval of the City Council. He indicated that the request could be addressed at the Parking Committee meeting on Thursday, May 8, 2008.

Motion passed.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

- 4. Acceptance of Waterline Easement for Wal-Mart

City Manager Bohenko informed the City Council that the Planning Board approved the Wal-Mart expansion on Lafayette Road. As a condition of approval, Wal-Mart was required to construct a new public waterline and grant the City an easement. The new waterline has been constructed and an easement deed prepared. He said that the Department of Public Works is satisfied with the waterline and the City's Legal Department has reviewed and approved the easement document.

Councilor Smith moved to authorize the City Manager to accept a waterline easement from Wal-Mart. Seconded by Councilor Dwyer.

Councilor Kennedy inquired as to the affect these developments have on our treatment plant and asked if we are addressing those matters. City Manager Bohenko said that Wal-Mart paid for the waterline and there is an Ordinance and impact fee for new facilities or expansion of facilities to address that issue. Councilor Kennedy asked for a copy of the ordinance for her review. City Manager Bohenko said he would provide Councilor Kennedy with a copy of the ordinance.

Motion passed.

5. Establish City Council Work Sessions and Public Hearing:
 - Re-Use of 251 Bartlett Street (Creek Athletic Club) – June 2nd at 6:00 p.m.
 - Retirement System – September 15th at 6:00 p.m.
 - Public Hearing on Granite State Fair Tax Coalition – July 21st at 7:00 p.m.

Councilor Dwyer moved to establish the work sessions and public hearing, as presented. Seconded by Councilor Pantelakos and voted.

Mayor Ferrini asked City Manager Bohenko to speak on the status of HB 1645 regarding retirement. City Manager spoke to the copy of the legislative bulletin which has been provided to the City Council this evening. He advised the City Council that the bill affects employees in group 1 and group 2. He spoke to the proposed amendment by the Senate which makes none of the long-term changes that are necessary to assure that the system will remain solvent in the future. City Manager Bohenko said if the amendments passes it would cost the City an additional \$1.5 million dollars or approximately \$.40 on the tax rate. He said he has discussed this matter with Senator Clark and she indicated that there would be no additional costs associated with the amendment but he has requested a summary of the costs by Senator Clark. He advised the City Council that Mayor Ferrini is working on a letter to Senator Clark addressing the City's concerns.

Councilor Dwyer spoke in support of the letter being written by Mayor Ferrini to Senator Clark on this matter. She said that we are the community in District 24 that Senator Clark represents and will be impacted by these amendments.

Councilor Pantelakos suggested that Mayor Ferrini send his letter to the entire Senate.

B. MAYOR FERRINI

1. Appointment to be Voted:
 - Tim Allison – Appointment to Economic Development Commission

Councilor Pantelakos moved to appoint Tim Allison to the Economic Development Commission until October 1, 2009. Mr. Allison is filling the unexpired term of Clifford Taylor. Seconded by Councilor Novelline Clayburgh and voted.

C. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the April 10, 2008 meeting

Councilor Smith moved to approve and accept the action sheet and minutes of the April 10, 2008 Traffic & Safety Committee meeting. Seconded by Councilor Novelline Clayburgh and voted.

2. Parking Committee Action Sheet and Minutes of the April 10, 2008 meeting

Councilor Smith moved to approve and accept the action sheet and minutes of the April 10, 2008 Parking Committee meeting. Seconded by Assistant Mayor Blalock and voted.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Bike/Walk to Work Day – May 16, 2008 (Not on agenda)

Councilor Reynolds announced that May 12, 2008 – May 16, 2008 is National Bike/Walk to Work Week.

Councilor Reynolds moved to authorize the City Manager to work with SABR (Seacoast Area Bicycle Routes) on the Annual Bike/Walk to Work Day scheduled for Friday, May 16, 2008 in Market Square. Seconded by Councilor Novelline Clayburgh.

City Manager Bohenko suggested that Councilor Reynolds have Seacoast Area Bicycle Routes contact him directly if they will be conducting the event on Friday, May 16, 2008.

Motion passed.

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

At 8:30 p.m., Councilor Pantelakos moved to adjourn. Seconded by Councilor Novelline Clayburgh and voted.

Kelli L. Barnaby, CMC/CNHMC
City Clerk