

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, NOVEMBER 10, 2008

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

At 6:30 p.m., an anticipated "Non-Meeting" with counsel was held regarding Negotiations–RSA: 91-A:2, I (b-c).

### **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, Hejtmanek and Pantelakos

### **III. INVOCATION**

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

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

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

### **PRESENTATION**

1. USS New Hampshire Commissioning Committee Presentation to City

Bruce Clark, USS New Hampshire Commissioning Committee presented Mayor Ferrini and the City Council with a picture of the USS New Hampshire submarine.

### **V. ACCEPTANCE OF MINUTES** *(There are no minutes on for acceptance this evening)*

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

Philip Geraci spoke regarding the lighting at the Toyota Dealership. He advised the City Council that his home is located across from the property and the lights illuminate his entire yard. He informed the City Council that there were no abutters notices sent relative to the lights being installed and the lights remain on until 10:00 p.m. every evening. Mr. Geraci said the lights are 37 feet high and create a hardship on the residents. He said that perhaps a reduction should be given to the property owners in the area.

Bill St. Laurent commended the City Clerk for her outstanding work on the election.

Jill Tapscott spoke opposed to the Toyota Dealership signage and how it affects the quality of life of the residents surrounding it. She said that this sign is too large to be located within the City limits.

Erik Anderson spoke to the reconstructed memorial created by the NH Commercial Fisherman Association and urged the public to visit it.

Joel Carp spoke concern regarding the scrap metal contract for Grimmell Industries. He advised the public that the Pease Development Authority will hold a hearing on renewing the contract here in the Chambers on November 25, 2008 at 4:00 p.m. He requested that the City Council write a letter to the Pease Development Authority opposed to the contract and asked that the City Council consider forming a task force made up of City Councilors, Pease Development Authority members and the legislation to deal with the scrap metal operations.

City Manager Bohenko asked the City Attorney to speak to the Toyota Dealership issue. City Attorney Sullivan said nothing connected to the development of the dealership has come easily and there have been 3 law suits with mixed results. He advised the City Council that the sign was built with a valid issued permit that did not call it a sign, it was called a wall and the permit was issued. He informed the City Council that Toyota spent \$200,000.00 for the sign and the residents are in the process of appealing to the Zoning Board of Adjustment. The decision of the Zoning Board of Adjustment will be appealable through District Court. He urged residents to speak out regarding this matter at the Zoning Board of Adjustment meeting.

Councilor Pantelakos asked City Attorney Sullivan if we could stop them from lighting the wall. He said that the lighting details were part of the application.

Councilor Dwyer said the Planning Board approved something different than this in terms of lighting and asked if they are enforceable. City Attorney Sullivan said this was not identified as a sign and the lights are required to be turned off at 10:00 p.m.

## **VII. PUBLIC HEARINGS**

- A. RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF THE CITY UNDER THE MUNICIPAL FINANCE ACT AND/OR PARTICIPATION IN THE STATE REVOLVING FUND (SRF) LOAN PROGRAM FOR COSTS RELATED TO THE CONSTRUCTION OF THE MADBURY WATER TREATMENT PLANT NOT TO EXCEED TWENTY FIVE MILLION DOLLARS (\$25,000,000.00)

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

Deputy Public Works Director Allen provided an updated on the Madbury Water Treatment Plant. He said as you are aware the plant is located in Madbury, NH – 6 miles north of Portsmouth. The source of supply is Bellamy Reservoir and serves 7 communities. The reservoir has an aging infrastructure and water quality improvements are needed. He spoke to operational challenges and the inefficient sludge handling.

Matt Valade spoke to the project design goals to meet regulatory requirements. He said improvements provide plant with oxygen rich raw water and operational flexibility at intake structure. The proposed new construction will maintain use of existing structures where possible. He said that Project Sustainable Design Goals General Principles are as follows:

- Reduce use of non-renewable resources
- Promote Energy efficiency
- Minimize Waste
- Durability – Life cycle considerations
- Creates safe and healthy environments
- Reduced “Carbon Footprint”

He advised the City Council that the new Water Treatment Plant design follows LEED Principles and Energy Star Efficiency.

Deputy Public Works Director Allen spoke regarding the project schedule and budget. He said the schedule consist of the following:

- Value Engineering conducted (\$1.5M savings)
- Design currently being finalized
- February 2009 – Bids accepted
- April 2009 – Notice to Proceed
- September 2010 – Start-up & Testing
- November 2010 – New facility on-line

He said the capital estimate is \$25 million and sustainable design features have minor impact on capital costs. A new plant will provide reliability, ensure regulatory compliance and enable flexibility for future treatment needs.

Bill St. Laurent said he understands that this is necessary but hesitates to see more bonding. He asked if the full project will be born by the City. City Manager Bohenko said \$5,000,000.00 of the \$25,000,000.00 will go through the SRF and is eligible for the low interest rate.

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

- B. RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF THE CITY UNDER THE MUNICIPAL FINANCE ACT AND/OR PARTICIPATION IN THE STATE REVOLVING FUND (SRF) LOAN PROGRAM FOR COSTS RELATED TO STATE STREET UTILITIES UPGRADE NOT TO EXCEED TWO MILLION TWO HUNDRED THOUSAND DOLLARS (\$2,200,000.00)

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

City Manager Bohenko said the SRF came out with rates of 2.4% or 2.6%. If the City Council approves the project we will proceed with a 10 year bond for a 2.6% rate. He advised the City Council that this project will calm down the traffic and provide necessary aesthetic improvements to State Street.

Water and Sewer Engineer Rice spoke to the Project Goals:

- Comply with EPA Administrative Order
- Upgrade 100 year old infrastructure
- Boost downtown business climate
- Calm (slow down) traffic
- Improve State Street aesthetics

He reviewed the conceptual design and reported that there will be no net loss of parking. He said we should finalize the design with construction to start in 2009.

City Manager Bohenko said this continues to be on the list for sewer separation of \$2.2 million with \$660,000.00 coming back through grants.

Robert Padian said he would like to see funds lowered and not use brick sidewalks.

Jay McSharry said it will raise property taxes but feels the improvements are necessary. He urged the City Council to approve the bonding request and proceed with the project.

Bill St. Laurent expressed concern with brick sidewalks and said project costs could be lowered without the use of brick for the sidewalks. He said the maintenance of the sidewalks will be problematic.

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

At 8:00 p.m., Mayor Ferrini declared a brief recess. Mayor Ferrini called the meeting back to order at 8:10 p.m.

- C. RESOLUTION AUTHORIZING A BOND ISSUE OF UP TO ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00) FOR ADDITIONAL COSTS FOR THE CONSTRUCTION OF A NEW FIRE STATION TO REPLACE FIRE STATION 2

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

Fire Chief LeClaire said that this project was started back in 2004. He spoke to the process followed and the original design for the site at 2700 Lafayette Road and in November 2007 the site at 3000 Lafayette Road became available and a redesign was done for the new site. Mayor Ferrini asked what an additional \$500,000.00 reduction would mean to the project. Chief LeClaire said the additional reduction would include the following:

- HVAC Controls
- DuraBlock
- Landscape Allowance Change
- Removable Floor (Training Room)
- Interior Finish Change (Apparatus Bays)
- Furniture Allowance Change
- Exercise Equipment Allowance Change
- Air Compressor
- Dispatch Consoles
- Telephone Allowance
- Fire Pole Change
- Removal of Training/Emergency Ops Room

Fire Commission Gamester said he understands the concern of the economy and a fire station has not been built in the City in over 40 years. He urged the City Council to approve the \$1,500,000.00.

Robert Padian said he supports the fire station and the request for bonding. He said the City Council should tour the existing station to see the need for a new facility. He said a training room and a dispatch center is needed and urged the City Council to support the request as submitted.

Erick Anderson spoke to the process and the requests for additional funding. He said the City Council should request to see a plan for a \$3.7 million dollar building.

Bill St. Laurent, Association of Portsmouth Taxpayers, said he echoes the comments of Mr. Anderson. He expressed concern with the continued request for bonding. He said the Fire Department is proceeding with every safety measure and we need to draw the line with building a station at such an exorbitant cost. He said that this is a sub-station and the main station serves the City well. The economy is difficult, a station should be built but not at the cost of the additional \$1.5 million dollar request.

Mark Herrholz spoke in favor of the bonding request and said the building is important to serving residents in District 2. This building will serve the City for over 50 years. He also addressed the need for the training room and the emergency operation center. He said he is in favor and urged the support of the City Council.

Mark Brighton said the original proposal was at \$3.5 million and now they are coming in for an additional \$1.5 million. He asked the City Council to consider the needs of the taxpayers in terms of the tax rate.

Robert Padian said that this station will not just serve District 2 and the additional request for funding is needed. He said this is an opportunity to invest in the future.

Erik Anderson said this is connected to every other budget concern. He said taxpayers do not want to see increases above 3% and there are further financial concerns.

Fire Chief LeClaire reviewed the process followed and said there were additional costs associated with redesigning the project from 2700 Lafayette Road to 3000 Lafayette Road. He spoke to the need for the training room, emergency operation center and the dispatch center.

Bill St. Laurent said that when the new site was selected additional features were requested that increased the costs.

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

Assistant Mayor Blalock moved to suspend the rules in order to take up Item XI. B. Letter from Lesley Kimball and Paula Rais, Portsmouth Poet Laureate Program, requesting that the City consider naming a street in the downtown for the City's second Poet Laureate, Robert Dunn and further request permission to plant an apple tree on the grounds of the Public Library. Seconded by Councilor Pantelakos and voted.

- XI. B. Letter from Lesley Kimball and Paula Rais, Portsmouth Poet Laureate Program, requesting that the City consider naming a street in the downtown for the City's second Poet Laureate, Robert Dunn and further request permission to plant an apple tree on the grounds of the Public Library

Councilor Novelline Clayburgh moved to refer to the Planning Board and Trees and Public Greenery Committee for report back. Seconded by Councilor Hejtmanek.

Councilor Dwyer spoke in support of the request and read a poem by Robert Dunn. He said that Mr. Dunn was a great character of the City.

Motion passed.

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

- A. Acceptance of New Hampshire Charitable Foundation Grant for Sustainability Intern in the amount of twenty five hundred dollars.

Councilor Novelline Clayburgh moved to authorize the City Manager to accept and expend funding in the amount of \$2,500.00 from the New Hampshire Charitable Foundation – Piscataqua Region to fund a sustainability internship stipend and outreach materials. Seconded by Councilor Pantelakos and voted.

- B. Acceptance of Donation to the New Library Building Fund
  - Phyllis Eldridge - \$3,000.00 (*Fulfills pledge*)

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

- C. Acceptance of Technical Program Grant "Cross-Agency" project from the Department of Justice to the Police Department in the amount of \$116,913.00

Councilor Kennedy moved to approve and accept the grant to the Portsmouth Police Department, as listed. Seconded by Councilor Pantelakos and voted.

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

- A. Adoption of Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan Program for Costs related to the Construction of the Madbury Water Treatment Plant not to exceed Twenty Five Million Dollars (\$25,000,000.00)

Councilor Pantelakos moved to adopt the proposed Resolution authorizing a bond issue of up to twenty-five million dollars (\$25,000,000.00) for the new Madbury Water Treatment Plant. Seconded by Councilor Novelline Clayburgh.

Councilor Kennedy asked why we are not looking at ultraviolet disinfection. Mr. Valade said the water quality in the Bellamy Reservoir does not require that disinfection.

Councilor Smith asked if we will need to go before the Town of Madbury. Deputy Public Works Director Allen advised that we have received approvals by the Planning Board and the Zoning Board of Adjustment for this project.

Councilor Smith asked what the bond rate will be for this project. City Manager Bohenko said the reason we are here this evening is as follows:

- There are \$5,000,000.00 funds in SRF and the State is holding it back from other communities. If we do not go forward in December, the funds could be released to another community
- The SRF rate is at 4.2% for 20 years

City Manager Bohenko informed the City Council that he would work with the Finance Director on the bonding and he would come back before the City Council if the bond rate is over 5%.

Councilor Kennedy said she supports the Resolution and said we need to move forward in order to receive the State funding.

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

- B. Adoption of Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan Program for Costs related to State Street Utilities Upgrade not to exceed Two Million Two Hundred Thousand Dollars (\$2,200,000.00)

Assistant Mayor Blalock moved to adopt the proposed Resolution authorizing a bond issue of up to two million two hundred thousand dollars (\$2,200,000.00) for State Street utilities upgrades. Seconded by Councilor Novelline Clayburgh.

Councilor Pantelakos asked if there would be a chance that the road would need to be torn up twice due to the construction of the Memorial Bridge. City Manager Bohenko said we were going to time the project with the renovations to the bridge but we need to move forward now and we will not tear of up the road twice.

Councilor Kennedy said she is pleased to hear that there will be no loss of parking spaces with this project. She asked about the bricks being used for sidewalks. Water and Sewer Engineer Rice advised that it is a water based brick. Public Works Director Parkinson said it is different than concrete and the material is cost effective.

Councilor Dwyer asked when the project could be completed. Water and Sewer Engineer Rice said it would take 2 construction seasons.

Assistant Mayor Blalock spoke in support of the project and the bonding request. He said that the City is getting a great bond rate and we need to move forward with the project.

Councilor Smith expressed concern with the businesses in the area. He supports the Resolution because the business owners are looking forward to the improvements. He said it is important that the business owners and residents stay informed of the project as it continues to move forward.

City Manager Bohenko said we will continue to hold meetings with the residents and business owners.

Councilor Spear spoke in support of brick sidewalks. He asked how well brick sidewalks hold up compared to concrete. Public Works Director Parkinson said brick sidewalks hold up as well as concrete sidewalk. Councilor Spear asked what type of parking meters we will be looking at using. City Manager Bohenko said that is not part of the issue this evening but we would look towards the pay and display meters.

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



- C. Adoption of Resolution Authorizing a Bond Issue of up to One Million Five Hundred Thousand Dollars (\$1,500,000.00) for Additional Costs for the construction of a New Fire Station to replace Fire Station 2

Councilor Pantelakos moved to adopt the proposed Resolution authorizing a bond issue of up to one million five hundred thousand dollars (\$1,500,000.00) for the construction of Fire Station 2. Seconded by Councilor Smith.

Mayor Ferrini passed the gavel to Assistant Mayor Blalock.

Mayor Ferrini moved to amend adoption of the Resolution authorizing a bond issue of up to one million dollars (\$1,000,000.00) for the construction of Fire Station 2. Seconded by Councilor Kennedy.

Mayor Ferrini said it is with reluctance he asked for this amendment. He said he is concerned with costs for the project. He said we need to be careful about spending items and bonding requests. Mayor Ferrini said that Fire Chief LeClaire has worked hard on this matter and said the items to be removed to reach the reduction in bonding are reasonable.

Fire Chief LeClaire advised the City Council every time they ask for a new design it costs the City additional funds. He reported with the reductions it would not qualify us for LEED Certification. Mayor Ferrini asked what items could get us to LEED Certification. Public Works Director Parkinson reported the HVAC Controls and Dura block. The architect advised the City Council that they cannot guarantee a LEED Certification.

Councilor Dwyer said she would not approve the amendment. She said there is a problem with our process. First it takes years from the time we decide to build and that has increased costs by 22%, which is 50% of the \$1.5 million. She said we asked for redesigns with the building and we spent \$500,000.00 which is 30% of the \$1.5 million and that now consists of 80% of the additional funding request. Councilor Dwyer said that these problems are created by the process we follow.

City Manager Bohenko said it is important to realize when we first started we were talking about a 12,000 square foot building and now the new site has increased to 17,000 square feet.

Councilor Hejtmanek said the original proposal of the Fire Department was not what they really wanted for a new building and when the land became available at 3000 Lafayette Road the department was able to propose the type of building they originally wanted but couldn't have because of the size of 2700 Lafayette Road.

Councilor Spear spoke to the request for a training room. Chief LeClaire reports that the current training room of the department is too small and we do not have an adequate back up facility of the Emergency Operations Center and the new building would allow for a state of the art facility that could remain set up and available at any time for use.

Councilor Smith said the LEED Certification is important and the residents want that. He said in the economic climate he is not happy with additional funding requests but sometimes you need to spend funds to save money with energy efficiencies.

Councilor Kennedy said she serves on the Fire Station 2 Committee and reviewed the current facility which is in bad condition. She expressed concern with cutting items that would take away LEED Certification and feels there are other items that could be reduced in order to keep the LEED Certification.

Councilor Novelline Clayburgh said she would support the amendment based on the current state of the economy. She said we need to look at all the projects and the residents need to save money and the \$500,000.00 reduction of the project is reasonable.

On a roll call vote 4-5, motion to amend adoption of the Resolution authorizing a bond issue of up to one million dollars (\$1,000,000.00) for the construction of Fire Station 2 **failed** to pass. Councilors Novelline Clayburgh, Kennedy, Hejtmanek and Mayor Ferrini voted in favor. Assistant Mayor Blalock, Councilors Dwyer, Smith, Spear and Pantelakos voted opposed.

Assistant Mayor Blalock returned the gavel to Mayor Ferrini.

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

Assistant Mayor Blalock said that this is an evolution of a new Fire Station and is pleased we defeated the motion to amend. He feels the training is necessary and we need to be prepared for the future.

Mayor Ferrini passed the gavel to Assistant Mayor Blalock.

Mayor Ferrini said he would support the original motion to move the Resolution forward and build the station.

Assistant Mayor Blalock returned the gavel to Mayor Ferrini.

Councilor Kennedy moved to amend adoption of the Resolution authorizing a bond issue of up to one million one hundred thirty thousand dollars (\$1,130,000.00) for the construction of Fire Station 2. Seconded by Councilor Novelline Clayburgh.

Councilor Kennedy said that this amendment would allow for inclusion of the HVAC Controls and the Dura block.

On a roll call vote 4-5, motion to amend adoption of the Resolution authorizing a bond issue of up to one million one hundred thirty thousand dollars (\$1,130,000.00) for the construction of Fire Station 2 **failed** to pass. Councilors Novelline Clayburgh, Kennedy, Hejtmanek and Mayor Ferrini voted in favor. Assistant Mayor Blalock, Councilors Dwyer, Smith, Spear and Pantelakos voted opposed.

On a roll call 8-1, voted to pass the main motion to adopt the proposed Resolution authorizing a bond issue of up to one million five hundred thousand dollars (\$1,500,000.00) for the construction of Fire Station 2. Assistant Mayor Blalock, Councilors Novelline Clayburgh, Dwyer, Smith, Kennedy, Spear, Hejtmanek, Pantelakos and Mayor Ferrini voted in favor. Councilor Kennedy voted opposed.

At 10:20 p.m., Mayor Ferrini declared a brief recess. Mayor Ferrini called the meeting back to order at 10:30 p.m.

- D. Third and final reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking sub-section A – Pearl Street – westerly side of Pearl Street after 8:00 a.m. and before 5:00 p.m., Monday through Friday

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

- E. Third and final reading of Ordinance amending Chapter 7, Article VI, Section 7.601 – Truck Loading/Unloading Zones Established and Section 7.602 – Truck Loading/Unloading Zones (24 Hours)

Section 7.601

Daniel Street:

- northerly side, 123 feet east from Bow Street for a distance of 45 feet
- northerly side, 215 feet east from Bow Street for a distance of 35 feet
- southerly side, 55 feet west from Penhallow Street for a distance of 80 feet

Market Street:

- easterly side, south for a distance of 50 feet, beginning at Commercial Alley
- easterly side, south for a distance of 40 feet, beginning at Bow Street

State Street:

- northerly side, 40 feet east from Pleasant Street for a distance of 20 feet
- southerly side, 20 feet west from Atkinson Street for a distance of 29 feet

Section 7.602

Pleasant Street:

- westerly side, south from State Street a distance of 50 feet

Porter Street:

- northerly side, 15 feet west from Fleet Street for a distance of 40 feet
- southerly side, 145 feet east from Middle Street for a distance of 45 feet

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

**X. CONSENT AGENDA**

- A. Letter from Susanne Delaney, Portsmouth Criterium, requesting permission to hold the annual Portsmouth Criterium event on Sunday, September 20, 2009  
***(Anticipated action – move to refer to the City Manager with power)***

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

Assistant Mayor Blalock moved to adopt the Consent Agenda. Seconded by Councilor Kennedy and voted.

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

- A. Letter from Deborah Phillips, Clip Joint Barbershop, requesting renewal of their dumpster license agreement

Assistant Mayor Blalock 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. Report Back Re: Skateboard & Rollerblading Ordinances

City Manager Bohenko said that City Attorney Sullivan has provided a memorandum for the City Council to review relative to this matter. He advised the City Council it is recommended to refer this item to the Traffic & Safety Committee for report back to the City Council.

Councilor Smith moved to refer this matter to the Traffic & Safety Committee for report back to the City Council. Seconded by Councilor Novelline Clayburgh.

Councilor Spear said he would like the Traffic & Safety Committee to think of skateboarding and rollerblading as a means of alternative transportation.

Councilor Pantelakos said she would have preferred to vote on first reading of an ordinance this evening. She said the Council needs to realize that we are discriminating against a certain group of people.

Councilor Smith advised the City Council that this matter will be considered by the Traffic & Safety Committee at their December meeting.

Motion passed.

2. Planning Board Report Back Re: Brora LLC's License Request to Erect a Sign within a Public Right-of-Way off the Intersection of Market Street and Portsmouth Boulevard

City Manager Bohenko said the Planning Board considered this referral on May 15, 2008 and again on October 16, 2008, and following some discussion recommends the following conditions for the City Council's consideration:

- That the request should be subject to a municipal license approved by the Legal Department as to content and form, which should be revocable by the City and that if the sign needs to be removed or relocated for any purpose, that it will be done at no cost to the City;
- That sign dimensions shall be as presented by the applicant in their Council submittal, the sign shall be limited to the three proposed sign panels and with no dimensional changes to these to be allowed, other than for content, without first receiving approval from the City;
- That the owner shall adhere to the "Dig Safe" process and following the sign's placement, any resulting disturbance of a sidewalk, street or other public infrastructure shall require its restoration at no municipal cost and subject to review and acceptance by the Department of Public Works;
- That the applicant shall be responsible for all electric utility work and all subsequent operational payments subject to review and approval by the Department of Public Works;
- That the sign should be externally illuminated (not internally as requested) with the lighting fixtures and lamps to be reviewed and approved for use by the Public Works and Inspections Departments (the intent is to minimize energy use and reduce glare by evaluating fixtures and lamps based on their lumens and photometric characteristics); and,
- All existing, non-permitted signs, including real estate signs, shall be removed before this sign is placed.

In making this recommendation, the Planning Board expresses the intent that the sign should have exterior lighting rather than interior illumination. Further, the Planning Board represents that the externally illuminated sign identifying the entrance to Osprey Landing presents a desirable example.

Councilor Hejtmanek moved to accept the Planning Board's recommendation with the aforementioned stipulations and approve the request of Brora LLC for a License Agreement to erect a sign within a public right-of-way off the intersection of Market Street and Portsmouth Boulevard. Seconded by Councilor Dwyer and voted.

3. Request to Establish African Burying Ground Trust Fund

City Manager Bohenko said on October 20th, the Council expressed consensus support for the African Burying Ground design recommended by the African Burying Ground Committee and for moving forward with final design. The African Burying Ground Committee is beginning its efforts to raise private funds to implement this design. As part of this effort, the Committee has discussed the importance of establishing a City fund or trust to facilitate City acceptance of private contributions that would be used to construct, maintain and/or support related educational/cultural initiatives related to the African Burying Ground. The African Burying Ground Committee's recommendation and request is that the City investigate establishing a fund or trust to facilitate its fundraising efforts.

Councilor Pantelakos moved to refer the recommendation from the African Burying Ground Committee to the City Manager for a report back. Seconded by Councilor Novelline Clayburgh and voted.

4. Reprogramming of U.S. Housing and Urban Development – Economic Development Initiative Grant Funds

City Manager Bohenko said the City was awarded \$993,850.00 in Economic Development Initiative (EDI) grant funds from U.S. Housing and Urban Development (HUD) to be used for the construction of the Piscataqua Riverwalk along Bow Street. As you also know, at the City Council's September 15<sup>th</sup> work session, City staff presented an update on the Riverwalk project and made recommendations on how to proceed given a number of issues including grant "spend by" dates and eligibility requirements, as well as the fact the City has been unable to obtain the easements necessary to carry out this project. The recommendations offered to the Council included:

- Spend non-federal dollars (approximately \$400,000) to upgrade the City-owned lot to include pedestrian scale lighting, seating, resurfacing, landscaping and drainage improvements as well as sidewalk, curbing and street resurfacing on the public portion of Ceres Street; this work to follow removal of the Poco Diablo restaurant deck.
- Relocate trash compactor to the property line with Portsmouth Navigation, including constructing a more attractive compactor enclosure and installing power wash and drainage capabilities and landscaping; this work to take place at licensees' expense.

- Provide the preliminary Riverwalk design plans (deck elevations, pedestrian lighting, surfacing, seating, etc) to each of the Bow Street property owners to be used to guide future, privately-sponsored improvements with the goal of achieving a more cohesive outcome as property owners carry out various upgrades over the years.
- Formally request that HUD allow the City to expend the EDI funds for another grant eligible project that could be designed, permitted and carried out before the grant termination date of April 2010.

The City Council expressed consensus support for these recommendations at the September 15<sup>th</sup> work session and asked him to report back regarding this matter following a meeting with affected Bow Street property owners, which would be held for the purpose of discussing with them the approach outlined above. That meeting, which included Mayor Ferrini, myself and other City staff, has now taken place. While some property owners expressed disappointment that the pier-built portion of the Riverwalk cannot go forward at this time, there was general support for moving forward in partnership with the City to improve public access in this area through the approach outlined above.

With regard to recommendations #1, #2 and #3, the intent is to upgrade the small City-owned lot through resurfacing, drainage improvements, pedestrian scale lighting, seating and landscaping. This project would also encompass a public-private partnership to fund resurfacing and drainage improvements along the adjacent privately owned alleyway on the river side of the Bow Street commercial buildings. As you know, while the alleyway area is privately owned, the public regularly utilizes it to access the waterfront restaurants and decks in this area. This so-called *Bow Street Public-Private Waterfront Improvements Project* would be funded through already available local dollars as well as UDAG funds. In this way UDAG funds would leverage private dollars to improve this area to the benefit of all.

City Manager reported that the staff will work with property owners to develop a schedule for this project. Prior to this work being carried out engineering and permitting needs to be completed, cost estimates developed and UDAG funds appropriated. In addition, the compactor enclosure would need to be relocated on the City parcel to the property line with Portsmouth Navigation. The Poco Diablo restaurant deck would also need to be relocated and work on this was initiated with the support of Mr. DiLorenzo and Poco Diablo proprietor John Golumb. Specifically, a land swap/lot line relocation was completed allowing relocation of the restaurant deck (at private expense) to private property adjacent to the rear of the Bow Street building at the corner of Ceres Street owned by Anthony DiLorenzo.

With regard to recommendation #4, the alternative project that was raised at the Council work session was to use the HUD EDI funds to construct the African Burying Ground project. The African Burying Ground Committee's unanimously recommended design plan was presented to the Council last month and the Council expressed their consensus support for the design plan as well as authorization to move forward with final design work.

City Manager Bohenko said if the Council so chooses, the next step is to obtain grantor approval for the reprogramming of the HUD EDI funds from the Riverwalk to the African Burying Ground project by submitting a formal proposal request. While meeting the grant "spend by" date of April 2010 still remains tight, we believe it can be achieved given how far along in the design and approval process the African Burying Ground currently is.

Councilor Novelline Clayburgh moved to authorize the City Manager to develop and submit a proposal to U.S. Housing and Urban Development, which seeks federal approval to reprogram \$993,850.00 in HUD EDI grant funds from the Piscataqua Riverwalk project to the African Burying Ground project. Seconded by Councilor Pantelakos.

Councilor Smith asked if HUD said no to the use of these funds what would happen. City Manager Bohenko said the funds would go back to the Federal Government.

Motion passed.

### City Manager Informational Items

#### 2. Proposed 2009 City Council Schedule

City Manager Boehnko said the City Council schedule for 09 has been submitted for all regular and work session meetings. He said that he would try to make all the budget work sessions on Wednesday's to accommodate Councilor Kennedy. He said it is important to note that all budget work sessions may not occur on Wednesday's and he would send a revised schedule to the City Council in the informational package.

#### 4. Pease Development Authority Public Hearing Re: Grimmell Scrap Contract

City Manager Bohenko advised that the Pease Development Authority will be conducting a public hearing on the Grimmell Scrap contract on Tuesday, November 25, 2008 in the Eileen Dondero Foley Council Chambers at 4:00 p.m. He announced that this meeting will be televised and available for rebroadcast on the City Website.

Mayor Ferrini said he would request that the City Manager provide a letter to the City Council at the November 24<sup>th</sup> meeting for their review to submit at the November 25<sup>th</sup> public hearing regarding the Grimmell Scrap contract.

### **B. MAYOR FERRINI**

1. Request to Joint Establish Work Session Re: Middle School on December 1, 2008 and cancel the Regular City Council meeting for that evening

Mayor Ferrini passed the gavel to Assistant Mayor Blalock.



Mayor Ferrini moved to cancel the Regular City Council meeting of December 1, 2008 and establish a Joint Work Session with the School Board Re: the Middle School on December 1, 2008 at 6:30 p.m. in the Eileen Dondero Foley Council Chambers. Seconded by Councilor Pantelakos.

Mayor Ferrini said that there are 3 close regular meetings and felt it was reasonable to give this the time it deserves. He requested that the City Council be provided with a copy of the documents going to the State prior to the meeting on the Middle School.

Councilor Novelline Clayburgh said she feels it is important to have an additional work session with the School Board prior to December 1<sup>st</sup>.

Councilor Dwyer suggested that we break the issue down and we could discuss size and program prior to December 1<sup>st</sup> and then discuss plans and costs at the December 1<sup>st</sup> work session.

Mayor Ferrini said we would hold a work session/presentation with the School Board on November 24<sup>th</sup> from 6:00 p.m. – 7:30 p.m.

Councilor Smith said he is pleased to break this up over 2 nights. He said he would like to have a schedule agenda of what the City Council is looking for and what the School Board is working on.

Mayor Ferrini said he would like to see an outline of questions and concerns for the agenda.

Motion passed.

Assistant Mayor Blalock returned the gavel to Mayor Ferrini.

City Manager Bohenko indicated for the record that on November 24<sup>th</sup> we would discuss size and programming and on December 1<sup>st</sup> discussion will include plans and costs. City Manager Bohenko suggested that Mayor Ferrini speak with School Board Chair Dr. Shuldman for an agenda and outline to be used.

2. 2008 Holiday Parade and Tree Lighting

Mayor Ferrini announced that the ceremony will begin at 5:00 p.m. December 6<sup>th</sup> with the lighting at 5:30p.m. and the parade to follow at 6:00 p.m.

3. Appointments to be Considered:
- Andy Bangs – Reappointment to PEDLP

The City Council considered the reappointment of Andy Bangs to PEDLP which will be voted on by the City Council at the November 24, 2008 meeting.

4. Appointments to be Voted:
- Joshua Cyr – Appointment to Economic Development Commission
  - Amy Brnger – Reappointment to Board of Library Trustees
  - Elizabeth “Betsy” Shultis – Reappointment to Board of Library Trustees
  - John Ricci – Reappointment to Planning Board
  - John Rice – Reappointment to Planning Board

Councilor Spear moved to appoint Joshua Cyr to the Economic Development Commission until October 1, 2009 and Mr. Cyr will be filling the unexpired term of Michael Murray; further the reappoint Amy Brnger to the Board of Library Trustees until October 1, 2011; reappoint Elizabeth “Betsy” Shultis to the Board of Library Trustees until October 1, 2011; reappoint John Ricci to the Planning Board until December 31, 2011; and reappoint John Rice to the Planning Board until December 31, 2011. Seconded by Councilor Kennedy and voted.

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

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

At 11:15 p.m., Councilor Pantelakos moved to adjourn. Seconded by Councilor Spear and voted.



Kelli L. Barnaby, CMC/CNHMC  
City Clerk