

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, NOVEMBER 24, 2008

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

At 6:00 p.m., a Joint Work Session with the School Board was held regarding the Middle School.

I. CALL TO ORDER

Mayor Ferrini called the meeting to order at 7:35 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 Hejtmanek led in the Pledge of Allegiance to the Flag.

MAYOR'S AWARD

1. Portsmouth High School Girls Volleyball Team Division II State Champions

Mayor's Awards and shirts were presented by Mayor Ferrini to the Portsmouth High School Girls' Volleyball Team Division II State Champions.

PROCLAMATION (Not on Agenda)

1. Buy Local First Week

Councilor Smith read the Proclamation declaring December 1, 2008 through December 7, 2008 as Buy Local First Week.

PRESENTATION

1. Report Back from Blue Ribbon Committee on Housing

Mayor Ferrini thanked the members of this committee for the long hours and hard work they have put into this project. He turned the meeting over to David Moore, Assistant Community Development Director for the presentation.

David Moore, Assistant Community Development Director, stated that the City's greatest housing challenge is to find creative, non-federal solutions to create housing opportunities that are affordable to Portsmouth's middle class wage earners, earning between 80% and 120% of median family income, or between \$55,350 and \$83,484 for a family of three. He stated that in recognition of this challenge, early this year the Portsmouth City Council established the Blue Ribbon Committee on Housing and charged the Committee with developing a "road map", or guidance document, on local housing options and issues; identifying creative solutions to address those issues; and developing a short list of policy and action items that could be taken by the City and others to increase affordable housing options. He stated that the key facts that the committee worked with are the jobs housing imbalance, the rental cost wage imbalance, the purchase price wage imbalance and the City's very limited developable land. He spoke to many issues and solutions the committee had discussed and summarized with a list of solutions ranging from high priority/immediate, short-term, ongoing priorities and longer term priorities.

Councilor Dwyer stated that the Committee's work has taken place in the context of recently enacted State Workforce Housing Law, which requires that municipalities provide reasonable and realistic opportunities for the development of workforce housing by compelling cities and towns to make regulatory changes at the local level such that workforce and multi-family housing is permitted. She said that new state law does allow for existing local housing stock to be considered in determining whether a community is meeting its fair share of the regional housing need. She stated that these issues are important and every effort should be made citywide to identify practical solutions.

V. ACCEPTANCE OF MINUTES – OCTOBER 6, 2008, OCTOBER 20, 2008 & NOVEMBER 10, 2008

Councilor Smith moved to approve and accept the minutes of the October 6, 2008, October 20, 2008 and November 10, 2008 City Council meetings. Seconded by Councilor Pantelakos and voted.

Councilor Smith spoke to the outstanding job done by the City Clerk's office. He stated that City Clerk Barnaby honored the City of Portsmouth by hosting a very successful New England Association of City and Town Clerks Conference on November 19th through 21st, 2008. He stated that due to her compassion and understanding of local government, she was sworn in as President of the New England Association of City and Town Clerks.

VI. PUBLIC COMMENT SESSION

Robert Hassold spoke concerning parking meter hours. He requested that the City roll back the meter hours from 7:00 p.m. to 5:00 p.m. as of January 1, 2009. He stated that with the weak economy, the meter hours discourage people from visiting downtown businesses.

Tom Holbrook, President of Seacoast Local spoke to the Letter from Vicki Simpson, (H)EAT volunteer and local runner and their proposed 5K Road Race on New Year's Day, January 1, 2009. He stated that this campaign is trying to raise \$50,000 to help needy residents in Portsmouth and Kittery to pay for food and home heating this winter. He said that (H)EAT will be running events all winter to raise money for this project.

Joel Carp spoke regarding the public hearing on the Port of New Hampshire's contract renewal to be held by the Pease Development Authority on November 25, 2008. He stated that he has been trying to gain Council support to deny this contract for many months and has been told that there is no real need to discuss this further as nothing new is going on. He stated that nothing has changed and he urged people to come to the hearing tomorrow at 4:00 p.m. and voice their opposition to this contract.

VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to the Coalition Legal Fund
- Town of Hebron - \$1,000.00

Councilor Kennedy moved to approve and accept the donation from the Town of Hebron in the amount of \$1,000.00 to be placed in the Coalition Legal Fund. Seconded by Councilor Smith and voted.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Middle Road – Northerly side from Sylvester Street to Swett Avenue

Councilor Smith moved to pass first reading and hold a public hearing and second reading of the proposed ordinance, as submitted, at the December 15th City Council meeting. Seconded by Councilor Pantelakos and voted.

- B. First reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Mechanic Street:
- Southerly side, from Marcy Street to the Peirce Island Bridge
 - Northerly side, from Marcy Street to the Peirce Island Bridge between the hours of 11:00 p.m. and 6:00 a.m.
 - Westerly side, from Peirce Island Road to a point 86 feet north of Gates Street

Councilor Smith moved to pass first reading and hold a public hearing and second reading of the proposed ordinance, as submitted, at the December 15th City Council meeting. Seconded by Councilor Pantelakos and voted.

IX. CONSENT AGENDA

(There are no items on this section of the Agenda this evening)

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Sarah Hamill and residents, regarding replacement for Alumni Field

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

- B. Letter from John Ricci, Chairman Portsmouth Planning Board, Re: Re-appointment of Planning Board Member Donald Coker

Councilor Pantelakos moved to accept and place on file. Seconded by Councilor Kennedy and voted.

- C. Letter from Vicki Simpson, (H)EAT volunteer and local runner, Re: Road Race

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

City Manager Bohenko stated that since this is (H)EAT's first time submitting for a Road Race, that he would discuss all the safety matters involved in having a Road Race in the winter.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Bartlett – Islington Street Sewer Separation Project

City Manager Bohenko stated that in order to commence the Bartlett-Islington Street sewer separation project, staff requires input from the City Council regarding the acquisition, or not, of certain property interests for the project. He said that in February 2008 the City Council authorized the acceptance of all the remaining easements necessary for the project. He further stated that as the City staff proceeded with the project, one of the property owners had a change of heart. The City staff has incorporated the required conditions into this project and in spite of these efforts and at the 11th hour, the property owner requested financial compensation for the easement that the City staff believes is in excess of fair market value. He turned the meeting over to Peter Rice, City Engineer for Water & Sewer Division.

Peter Rice, City Engineer for Water & Sewer Division, stated that the Bartlett-Islington Street Sewer Separation Project is required by the EPA to eliminate flooding. He discussed the six alternatives that were reviewed. He stated that the best alternative was the north side of Bartlett Street. Mr. Rice reviewed the steps already taken in this project as the following:

- Initial discussion with 653 Islington Street property owner indicated easement was acceptable with conditions
- Negotiated other easements
- Performed 11,000 sq ft easement taking on railroad property (\$20K)
- Negotiated additional easement to ensure alternative access to 653 Islington
- Eleventh hour property owner had a change of heart and requested compensation in excess of what the City was willing to pay – 2,000 sq ft easement.

City Manager Bohenko stated that if we do not take this easement by eminent domain we would have to close Bartlett Street for 90 days which would impact multiple businesses. City Attorney Woodward stated that the City Council could schedule a Public Necessity hearing for the proposed acquisition in January 2009. She further stated that we are in the process of getting a fair market appraisal on this property. City Manager Bohenko stated that during this process City staff will continue dialog with the property owner in an effort to secure the easement without having to complete the taking.

Councilor Pantelakos moved to authorize the City Manager to schedule a Public Necessity hearing at a January 2009 meeting for the purpose of acquiring the necessary easements over the property of 653 Islington Street. Seconded by Councilor Novelline Clayburgh.

Councilor Dwyer asked what the expense would be for this business owner. Peter Rice stated that the City has worked with various business owners to allow access to his property. Councilor Kennedy asked how long this project would take. Peter Rice stated that it would take about 30 days, but would be completed in phases so as not to shut his business down. Mr. Rice further stated that there is presently an easement under his property that he will be given back. City Manager Bohenko stated that eminent domain is not always a bad thing for the better good of the community. Peter Rice stated that they are still planning the project for the business owner's off-season.

Motion passed.

2. Request to Extend the Deck Lease Agreement for Poco Diablo, Inc.

City Manager Bohenko stated that Poco Diablo, Inc. is asking to extend the Deck Lease Agreement until November 30, 2013. He said the current lease expired November 1, 2008. He further stated that the City is not in favor of a five-year extension. He said that the current plan for this area is to work with property owners adjacent to the City owned parcel where Poco's deck is located to design a number of infrastructure upgrades for this area. He stated that these improvements cannot proceed until the Poco deck is relocated and a 5-year extension would delay those improvements for at least 5 years. He said a one-year extension seems appropriate in that it will allow the City time to work with adjacent property owners to design and permit these improvements. He further stated that while a one-year extension is not of concern in terms of issuing a food service permit, staff believes costly deck upgrades would be needed over the course of multiple years in order to meet food service requirements.

Assistant Mayor Blalock rescued himself as he is a business owner in this area.

Councilor Pantelakos moved to hold a non public session with City Attorney Sullivan, Mr. Golumb, President, Poco Diablo and Mr. DiLorenzo, Property owner. Seconded by Smith.

Councilor Kennedy stated that she agrees with Councilor Pantelakos. Councilor Novelline Clayburgh said that she is confused about the deck and the land exchange and would like a work session in order to better understand the circumstances. Councilor Smith stated that he was in favor of a work session to discuss this matter further with the owners.

Councilor Smith moved to suspend the rules to allow Mr. Golumb to speak to a date that would be convenient to both owners. Seconded by Councilor Novelline Clayburgh and voted.

John Golumb, President of Poco Diablo asked if the proposed date was for January 2009. Mayor Ferrini stated that it was. Mr. Golumb also asked if the Council was requesting both him and Mr. Dilorenzo. Mayor Ferrini stated that this was correct. Mr. Golumb requested that he be allowed to check with Mr. Dilorenzo and get back with the Council on an available date. Mayor Ferrini stated that would be acceptable. Councilor Smith asked if the current expired lease would remain in place until this matter is resolved. City Manager Bohenko stated that it would. Councilor Pantelakos requested if City Attorney Sullivan would explain how a Planning Board makes a decision that something is demolished before any paperwork can be passed. Councilor Hejtmanek stated that if it stipulated that the deck has to be torn down before the land transfer takes place how Mr. Golumb gets approvals from the Historic District Commission and the Planning Board. City Manager Bohenko stated that he understands that Mr. Golumb has many of his approvals already. Mr. Golumb stated that he only has preliminary approvals. Councilor Hejtmanek asked if he can get the approvals with out owning the land. City Manager Bohenko stated that he can. Mayor Ferrini stated that Mr. Golumb might want to complete this process.

Mayor Ferrini stated that we are going to table the discussion on this matter until the first reasonable meeting in January 2009. Motion passed.

3. FairPoint Proposed Pilot of Internet Protocol Television (IPTV) Technology

City Manager Bohenko stated that Mr. Gregg, Chair of the Cable Commission was available to answer any questions the Councilors might have.

Councilor Smith moved to suspend the rules to have Mr. Gregg explain the Proposed Pilot of Internet Protocol Television (IPTV) Technology. Seconded by Councilor Pantelakos and voted.

John Gregg, Chair, Cable Commission stated that the Commission has been trying to integrate video/cable service competition into the City. He stated that the Commission reached out to FairPoint and they are asking for permission to launch a trial program within Portsmouth. He stated that FairPoint was in the midst of planning to bring up a video service that would be a compliment to the internet and the telephone service that they now provide. He further stated that if this project does move forward, the City would then have procured competition within the video/cable service market. He turned the meeting over to Rick Preti, Senior Vice President, Strategy & Development for FairPoint Communications. Mr. Preti stated that this proposed pilot would be an opportunity to test FairPoint's program for 90 days. He stated that Portsmouth was chosen because the Portsmouth Cable Commission reached out to FairPoint. He stated that FairPoint has the experience in this area, but this technology is new even to FairPoint. Mr. Preti stated that the program would be installed into approximately 100 homes and would be provided at no charge to the customer or the City. He said that each resident would be provided with the use of a flat panel high definition television, a set-to-box and dedicated fiber connection for trial viewing. He said that the dedicated connection and use of the flat panel HDTV is designed to prevent interference or disruption of services of existing internet, phone, cable and/or satellite services.

Councilor Smith moved to authorize the City Manager to take such action, including the negotiation and execution of a Memorandum of Understanding to allow FairPoint to undertake a trial of its IPTV technology as outlined in FairPoint's letter of October 23, 2008. Seconded by Assistant Mayor Blalock.

Councilor Smith asked if any businesses would be able to be a part of this trial. John Gregg stated yes. He also stated that FairPoint is prepared to install a TV and set-to-box in City Hall to allow the City to evaluate the technology that may be offered commercially in the future. Councilor Smith asked how the residents would be selected and would they have to give up their present service. Mr. Gregg stated that it would be a random process and would rely on whether or not a specific house qualifies for the equipment. He further stated that the residents would not have to give up their current service and that the new equipment would be installed and the old equipment and service would remain as is.

Motion passed.

4. Approval of 2009 City Council Schedule

Councilor Smith moved to approve the 2009 City Council Schedule for meetings and work sessions, as submitted. Seconded by Councilor Kennedy and voted.

5. Request to Extend Ceres Street Compactor License

City Manager Bohenko stated that Jack Blalock of Ferry Landing is requesting that the License Agreement for the compactor on Ceres Street be extended for one-year. He said that he and the staff concur with this request and would recommend a one-year extension with the provision that the structure that houses the compactor be inspected to assure its structural integrity. He further stated that during the one-year extension, businesses utilizing the compactor, work with City staff to develop a permanent plan for the structure and location of the compactor that would fit into the proposed work that is being done on the waterfront.

Assistant Mayor Blalock rescued himself as he is the requestor of the extension.

Councilor Smith moved to authorize the City Manager to extend the compactor license and to request a work session be held on this issue. Seconded by Councilor Kennedy and voted.

City Manager Informational Items

1. Thanksgiving Holiday

City Manager Bohenko stated that Municipal offices would be closed on Thursday and Friday, November 27 & 28, 2008 in honor of the Thanksgiving holiday.

2. Curbside Collection of Rubbish and Recyclables Re: Thanksgiving Holiday

City Manager Bohenko read the notice of the holiday schedule for curbside collection of rubbish and recyclables.

B. MAYOR FERRINI

1. Second Annual Recognition of Service for the City of Portsmouth Boards & Commissions

Mayor Ferrini announced that the Second Annual Recognition of Service for the City of Portsmouth Boards & Commissions would be held on December 8, 2008 at 7:00 p.m. with light refreshments at 6:30 p.m. in the Portsmouth City Hall, Eileen Dondero Foley Council Chambers.

2. Appointment to be Voted:
- Andy Bangs – Re-appointment to PEDLP

Councilor Pantelakos moved to appoint Andy Bangs to PEDLP until November 24, 2011. Seconded by Councilor Smith and voted.

- Donald Coker – Re-appointment to the Planning Board

Mr. Coker refused the nomination at this time. Therefore, no action was taken.

3. Acceptance of Resignation:
- Richard Adams – Conservation Commission

Councilor Smith moved to accept with regret the resignation of Richard Adams from the Conservation Commission. Seconded by Councilor Pantelakos and voted.

- Brendan T. Ristaino – School Board

Councilor Smith moved to accept with regret the resignation of Brendan T. Ristaino from the School Board. Seconded by Councilor Pantelakos and voted.

C. COUNCILOR DWYER

Councilor Dwyer moved for a work session for action on the Affordable Housing report. Seconded by Councilor Smith.

Councilor Dwyer stated that it is important that the principles within the Committee on Housing's report be approved. She said that the Council needs to discuss with the Committee on Housing the options contained in the report and explore any new options voiced.

Councilor Smith wanted to recognize the outstanding leadership of Councilors Dwyer and Pantelakos as well as the other members of the Committee. He stated that while working on this committee, he realized how blessed Portsmouth residents are and urged everyone to download the report and attend the work session. Councilor Pantelakos also thanked Councilor Dwyer for her leadership. She stated that there is a bill in the Legislature to postpone this project for 1-3 years and would like to thank Portsmouth for taking a stand on this and moving forward.

Councilor Kennedy stated that the City should look at the whole area and not just Portsmouth. Councilor Dwyer stated that Newington is very interested. Councilor Smith stated that a joint session with other committee members would be helpful. Mayor Ferrini asked if the City Attorney should attend to be able to draft any first readings that might come out of this meeting. Councilor Smith stated that would be in order.

Councilor Spear stated that the Committee did most of their work on the income and affordability, but there are also demographics on age and family type that should be reviewed. Councilor Smith stated that he sits on the Economic Development Commission and that Portsmouth and Seacoast are more resilient than most cities. He stated that the Economic Development Commission has a document that we should have at the work session to be able to show where those numbers fit in and why it is important for Portsmouth to be a regional seat of resource to help other communities. He stated that Portsmouth is not as bad as we are hearing in the news. Assistant Mayor Blalock stated that Mr. Burg, Economic Development Commission gave a report on how Portsmouth housing has not dropped off. He also stated that this report would be good to have at the work session. Councilor Dwyer stated that we need to create more taxpayers to share the taxes; therefore, we need to create more units.

D. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes for the November 13, 2008 meeting

Councilor Smith moved to approve and accept the action sheet and minutes of the November 13, 2008 Traffic & Safety Committee. Seconded by Assistant Mayor Blalock.

Councilor Kennedy moved to remove item 2, item 4, item 7 and item 8 for discussion.

Councilor Smith stated that item 9 – Market Square – was not an ordinance change. He said that it was only adding a stop sign at Daniel Street.

City Manager Bohenko stated that the motion is now to accept items 1, 3, 5, 6 and 9 of the November 13, 2008 Traffic & Safety Committee action sheet and minutes.

a. Item 2 - Pleasant/Hancock Street Intersection

Councilor Pantelakos moved to approve and accept item 2 – Pleasant/Hancock Street Intersection of the action sheet and minutes of the November 13, 2008 Traffic & Safety Committee. Seconded by Councilor Novelline Clayburgh.

Councilor Smith stated that Item 2 consisted of awaiting a report back from Public Works on the possibility of T'ing up that intersection. He stated that this could create a couple of parking spaces. He further stated that there was no action taken on this item at the November 13, 2008 meeting. Councilor Kennedy asked if the Council could get a copy of the report back from Public Works when it is received. Councilor Smith stated that he would see that they did.

Motion passed.

b. Item 4 – 746 Middle Road

Councilor Smith moved to approve and accept item 4 – 746 Middle Road of the action sheet and minutes of the November 13, 2008 Traffic & Safety Committee. Seconded by Councilor Pantelakos.

Councilor Smith stated that this item was tabled until next month for another on-site and no action was taken at the November 13, 2008 meeting. Councilor Kennedy requested how many parking spaces would be lost. Councilor Smith stated that there would be the loss of one space.

Motion passed.

c. Item 7 – Islington at Dover/Salem Streets

Councilor Smith moved to approve and accept item 7 – Islington at Dover/Salem Streets of the action sheet and minutes of the November 13, 2008 Traffic & Safety Committee. Seconded by Councilor Pantelakos.

Councilor Smith stated that this is a request to place No Parking Here to Corner sign at the intersection of Dover and Islington Streets and Salem and Islington Streets. Councilor Kennedy asked if people are presently parking there. Councilor Smith stated that people are parking in places where they are not supposed to park. He said that parking in this area constitutes an unsafe situation and we are just putting up the signs to that effect.

Motion passed.

d. Item 8 – Washington/Hancock/Pleasant Streets

Councilor Smith moved to approve and accept item 8 – Washington/Hancock/Pleasant Streets of the action sheet and minutes of the November 13, 2008 Traffic & Safety Committee. Seconded by Councilor Dwyer.

Councilor Smith stated that this would require an ordinance change. He said the change would be to place a No Parking on Both Sides sign on Washington Street from Hancock to Pleasant Street and they will also look at the area where a fire hydrant is actually in the street.

Motion passed.

2. Parking Committee Action Sheet and Minutes of the November 13, 2008 meeting

Councilor Smith moved to approve and accept the action sheet and minutes of the November 13, 2008 Parking Committee. Seconded by Assistant Mayor Blalock.

Councilor Pantelakos stated that she is opposed to adding more pay and display. She stated that people do not like them. She stated that mother's with children feel it is unsafe to have to either leave their children in the car and walk to the nearest pay and display or take the small children with her to get the ticket. Councilor Smith stated that he has been getting positive feedback on this. He stated that people like the idea that the time you put into the meter travels with you when you move to another parking space with pay and display. He further stated that it is a true savings to the City. City Manager Bohenko stated that we can have a presentation concerning the pros and cons by the Parking Director Jon Frederick at the December 15, 2008 City Council meeting and vote on whether or not the Council wishes to continue with this system or not. Assistant Mayor Blalock said that Councilor Smith is correct and he has heard from people that they have become very comfortable with the pay and display. Councilor Dwyer asked if the Council could explore a way for people to buy tickets ahead of time to alleviate problems like Councilor Pantelakos stated. City Manager Bohenko stated that there are other methods out there that can be explored if the Council wishes.

Councilor Smith stated that Holiday parking would be from Monday, December 15 through Saturday, December 27, 2008. He stated that parking would be free, but parking time limits are still in effect and will be enforced.

Councilor Kennedy moved to have item 4 – 367 March Street taken out for discussion. Seconded by Councilor Pantelakos and voted.

Voted to approve and accept the remaining items of the Action Sheet and Minutes of the November 13, 2008 Parking Committee Meeting.

Councilor Smith moved to approve and accept item 4 – 367 March Street of the action sheet and minutes of the November 13, 2008 Parking Committee. Seconded by Councilor Novelline Clayburgh.

Councilor Smith stated that item 4 is for two additional 15 minutes parking spaces. He stated that the Fish Market and the Vine Street Winery feel that four 15-minute spaces would be more appropriate. Councilor Novelline Clayburgh asked if this would only be during business hours. Councilor Smith said yes that after hour parking would be like everything else in the City where after 7 p.m. parking becomes open to anyone.

Councilor Kennedy moved to amend these two spaces to 2 hour parking. Motion failed for lack of a second.

Councilor Kennedy stated that by making these spaces only 15 minute parking causes people to park in the surrounding neighborhoods and we need to find parking that will move these people out of the neighborhoods. Assistant Mayor Blalock stated that a 15 minute parking space stimulates parking. He stated that this short term parking allows for quick turn over of parking allowing for more people to get in and out of these businesses.

Voted to approve and accept Item 4 of the Action Sheet and Minutes of the November 13, 2008 Parking Committee meeting. Councilor Kennedy voted opposed.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

At 9:40 p.m., Councilor Smith moved to adjourn. Seconded by Councilor Kennedy and voted.

Dianne M. Kirby, Deputy City Clerk