

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, APRIL 6, 2009

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

At 6:00PM an Anticipated "Non-Meeting" with Counsel was held regarding Negotiations.

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

Mayor Ferrini called the meeting to order at 7:15 p.m.

### **II. ROLL CALL**

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

### **III. INVOCATION**

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

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

Assistant Mayor Blalock led in the Pledge of Allegiance to the Flag.

### **MAYOR'S AWARD**

1. 2009 Portsmouth High School Boys Class I Championship Basketball Team

Mayor Ferrini presented Mayor's Awards and T-shirts to the players and coaches of the 2009 Boys Class I Championship Basketball Team. Coach Mulvey thanked Mayor Ferrini and the City Council for this recognition. State Representative Jacqueline Cali-Pitts presented Coach Mulvey with a Proclamation in honor of their championship title.

### **PROCLAMATION**

1. Announcement of new Poet Laureate – Lesley Kimball Program Co-Chair

Mayor Ferrini read a Proclamation declaring Mark DeCarteret as the 2009 Poet Laureate. Mr. DeCarteret thanked Mayor Ferrini, City Council and members of the Poet Laureate Selection Committee for this prestigious honor.

## **PRESENTATION**

1. Quarterly Update of Wastewater Treatment Plant – Dave Allen, Deputy Public Works Director

David Allen, Deputy Public Works Director reviewed the Wastewater Master Plan scope of work that has been completed, what is on-going and what will take place in the future. He reported that currently on-going activities include the following:

- Collection System Evaluation
- Alternatives Evaluation
- Develop Public/Regulatory Participation Program
- Project Management

Future Items are as follows:

- Develop Funding Strategies
- Develop Implementation Schedule
- Prepare the Wastewater Master Plan
- Update Wastewater Treatment Facilities Plan
- Update CSO LTCP

Peter Goodwin, Weston & Sampson reviewed the collection system evaluation and reported that a workshop will be held on April 13, 2009. He informed the City Council that the hydraulic model has been updated. Mr. Goodwin spoke to Alternatives Assessment and reported the following:

- Evaluation has centered on potential nitrogen limit which will be imposed by EPA/DES
- Meetings with EPA/DES will focus on nutrient criteria being established and starting in upper reaches of Great Bay Estuary
- Potential total nitrogen limit may be:
  - 10 mg/L
  - 5 mg/L
  - 3 mg/L

He reported on several treatment processes being evaluated based on:

- Ability to meet potential TN limits, with potentially reduced TN limit in future
- Land area required
- System complexity
- City's sustainability goals

Mr. Goodwin addressed Potential Interim Measures as follows:

- ✚ Enhance Illicit Discharge Detection Elimination (IDDE) Program
  - On-going effort by City Staff
- ✚ Implement Urban Best Management Practices (BMP's)
  - This option is being pursued (State Street Project, Coakley Road Drain Improvements)
- ✚ Development of a Stormwater Utility
  - City Staff applied for and notified of award of Stormwater Utility feasibility study grant
- ✚ Utilize In-Pipe Technology Program
  - This option was withdrawn by In-Pipe Technology after further discussions/clarifications.

Peter Rice, Water & Sewer Engineer provided an updated on Senate Bill 168. He reported that the bill would establish a Coastal Watershed Alliance (CWA) comprised of 44 communities in the Great Bay Watershed. The bill was developed without municipal input and the CWA as defined in SB 168 has no by-laws, defined cost of membership or mechanism for apportionment of capital costs. Engineer Rice informed the Council that a number of communities have requested that SB 168 be retained by House Committee for further study and input from affected communities. In closing, a House sponsor is planning a public meeting in the near future.

## **V. ACCEPTANCE OF MINUTES – MARCH 16, 2009**

Councilor Smith moved to approve and accept the minutes of the March 16, 2009 City Council meeting. Seconded by Councilor Kennedy and voted.

## **VI. PUBLIC COMMENT SESSION**

Steve Durgin asked what the Wastewater Treatment Plant costs entail. City Manager Bohenko recommended that Mr. Durgin put his questions in a letter for response.

Assistant Mayor Blalock moved to suspend the rules in order to take up Items X. A. – Letter from Barbara Massar, Pro Portsmouth, regarding Points of Clarification for Financial Assistance and XI. A.3. - Report Back Re: Pro Portsmouth Request for Financial Assistance to Reduce Their Debt to the City. Seconded by Councilor Spear and voted.

X. A. Letter from Barbara Massar, Pro Portsmouth, regarding Points of Clarification for Financial Assistance and XI. A.3. - Report Back Re: Pro Portsmouth Request for Financial Assistance to Reduce Their Debt to the City

City Manager Bohenko said at the March 16<sup>th</sup> City Council meeting, there was a letter from Pro Portsmouth Executive Director, Barbara Massar, requesting that the City Council reduce by 50% the \$35,661.00 balance it owes to the City as it relates to police details for their various events dating back to 2006. Presently, Pro Portsmouth is making payments towards this balance on a monthly basis. Unfortunately, it is their belief that they will be unable to overcome the entire debt owed to the City.

City Manager Bohenko informed the City Council that in her letter, Barbara Massar proposed that the City reduce their debt by 50% or approximately \$17,830.00. They felt that this would enable them to move forward in the future to keep current.

City Manager Bohenko reported that subsequent to the March 16<sup>th</sup> meeting, many non-profits contacted him and indicated that they would like the City to consider waiving private detail fees if Pro Portsmouth was able to get a reduction in their debt. The primary premise was that they as non-profits had to raise the money in order to put their events forward and felt that any reduction in Pro Portsmouth's debt should be equally provided to other non-profits. After receiving these telephone calls, he took the opportunity to research the number of non-profits that purchased police detail services for their events. Since January 1, 2007, there have been over 45 non-profits that have retained police services for their events. The total amount for those services was approximately \$84,000.00 with all non-profits paying their bills and keeping current.

Given this information and the feedback that he has received from the non-profit community, he would recommend that the City Council continue Pro Portsmouth's payment schedule to reduce their debt to the City and in the meantime, work to develop a comprehensive policy dealing with all non-profits and the use of private detail. City Manager Bohenko said he would like to work on this proposed policy over the next few months with City Staff to determine what we might be able to do, if anything.

Councilor Pantelakos moved not to proceed with the forgiveness of Pro Portsmouth's debt at this time and continue their repayment schedule in order to allow the City Manager the opportunity to work on a proposed policy for the City Council's review. Seconded by Councilor Novelline Clayburgh.

Councilor Dwyer said if a non-profit rate is established we could reopen the discussion. City Manager Bohenko said that there is an opportunity to bring interested parties in and discuss this matter further. He informed the City Council that the Police Department has worked with him to keep down the detail costs.

Mayor Ferrini passed the gavel to Assistant Mayor Blalock.

Mayor Ferrini said that the City Manager's recommendation is in the best interest of everyone.

Assistant Mayor Blalock returned the gavel to Mayor Ferrini.

Motion passed.

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

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

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

B. New Hampshire Public Health Network Grant RFP

Councilor Dwyer moved to authorize the City Manager to apply for, accept and expend a grant from the New Hampshire Department of Health and Human Services for the purpose of funding the ongoing public health and emergency planning work of the Greater Portsmouth Public Health Network. Seconded by Councilor Novelline Clayburgh and voted.

**VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

A. First reading of Ordinance amending Chapter 7, Article II, Section 7.213 – Fees and Terms for Permits/Licenses (Taxicabs)

Councilor Pantelakos moved to pass first reading and schedule a public hearing and second reading at the April 20<sup>th</sup> City Council meeting. Seconded by Councilor Smith and voted.

**IX. CONSENT AGENDA**

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

A. Renewal of Sidewalk Obstruction Licenses with no changes from last year

- Colby's Breakfast & Lunch – 1 A-frame sign
- Helen Marks – 1 A-frame sign
- Helen Marks #2 – 1 A-frame sign
- Pesce Blue Restaurant – 1 A-frame sign
- Prudential Rush Realty – 1 A-frame sign
- Rudi's Portsmouth – 1 A-frame sign
- Springers Jewelers – 1 A-frame sign
- The First National Bank of Ipswich – 1 A-frame sign
- Upscale Nails – 1 A-frame sign

***(Anticipated action – move to refer to the City Manager with power)***

B. Letter from Aerial Sillanpaa, Deer Street Merchants, requesting permission to display their "Deer Street" flags for another year ***(Anticipated action – move to refer to the City Manager with power)***

C. Letter from Deborah Bouchard-Smith, Scarecrows of the Port, requesting permission to place scarecrows in designated locations throughout the Portsmouth Downtown Area from October 15, 2009 through November 2, 2009 ***(Anticipated action – move to refer to the City Manager with power)***

Councilor Pantelakos moved to adopt the Consent Agenda. Seconded by Councilor Kennedy and voted. Councilor Smith abstained from voting on Items B and C.

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

- B. Letter from Zeke Gumprecht requesting the installation of a traffic light in front of New Franklin School

Councilor Spear moved to refer to the Traffic & Safety Committee. Seconded by Councilor Kennedy and voted.

- C. Letter from Ann Bliss and Jenny Isler, Portsmouth Listens 2<sup>nd</sup> Annual Sustainability Fair, requesting approval for the use of a horse drawn hay wagon on the day of the Sustainability Fair, May 9, 2009

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

- D. Letter from Jim Noucas and John Tabor, Portsmouth Listens, requesting a waiver on vendor fees for food vendors at the Sustainability Fair on May 9, 2009

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

City Manager Bohenko informed the City Council that the vendors will still be required to be inspected by the Health Department as was done last year.

Councilor Pantelakos asked if we waive the fee for other non-profits. City Manager Bohenko said fees are waived for large events.

Motion passed.

- E. Letter from Scott Segee, Fa La Lo of Portsmouth LLC, requesting permission to install a projecting sign at 51 Ceres Street (**Sample motion – move to refer to the Planning Board for report back**)

Councilor Novelline Clayburgh moved to refer to the Planning Board for report back. Seconded by Councilor Smith and voted.

- F. Letter from Alex Vandermark, The Juicery, requesting permission to install a projecting sign at 51 Hanover Street (**Sample motion – move to refer to the Planning Board for report back**)

Councilor Dwyer moved to refer to the Planning Board for report back. Seconded by Assistant Mayor Blalock and voted.

- G. Request from Kenneth Smith, Maine-ly New Hampshire, 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 Pantelakos moved to refer to the City Manager with power. Seconded by Assistant Mayor Blalock and voted. Councilor Smith abstained from voting.

- H. Letter from Erin Mack regarding revised skateboard ordinance

Councilor Novelline Clayburgh moved to accept and place the letter on file. Seconded by Councilor Spear and voted.

- I. Request from George Carlisle, Olde Port Properties, 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 Novelline Clayburgh moved to refer to the City Manager with power. Seconded by Councilor Smith and voted.

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

### **A. CITY MANAGER**

1. Proposed Donation of Arborist Services for Improvements to Haven Park

City Manager Bohenko advised the City Council that a number of owner-operated arborist tree companies located in the seacoast are proposing to do tree work at Haven Park on Arbor Day, April 24<sup>th</sup>. He reported to the Council that the Trees & Greenery Committee recommended that the City accept this proposal as an appropriate Arbor Day recognition. City Manager Bohenko said if this request is approved the Public Works Department will work with them on this project.

Councilor Kennedy moved to accept this pro bono work at Haven Park as recommended by the Trees and Greenery Committee. Seconded by Councilor Pantelakos and voted.

2. Acceptance of Chase Quitclaim Deed

City Attorney Sullivan advised the City Council that there was a dispute for property located at the end of Baycliff Road relative to the paper street. He informed the City Council that the quitclaim deed from Aquila & Marcia N. Chase has been provided to the Council for property located on Baycliff Road, which the City Council needs to formally accept. He reported that this deed means that the City has now secured permanent public access to the water at the end of Baycliff Road. In closing, City Attorney Sullivan informed the Council that the Planning Board recommended the conveyance of this property as part of the final subdivision approval on November 20, 2008.

Councilor Pantelakos moved to accept the Chase Quitclaim Deed, as recommended by the Planning Board. Seconded by Councilor Smith and voted.

#### 4. Private Street Agreement between Portwalk and the City of Portsmouth

City Attorney Sullivan said the Parade Office, LLC, owner of property formerly known as the Parade Mall, desires to subdivide its property into three (3) lots and complete a mixed-use development which would include, among other things, a hotel, office space, commercial space and associated parking. Collectively the development would be called Portwalk.

He reported that the Planning Board subdivision approval for Portwalk expressly contemplates that the main thoroughfare connecting Deer Street to Hanover Street will be a private street. However, because to the eye of the average person the private street will appear to be a City street, the Planning Board conditioned its approval on the negotiation and execution of a private street agreement to define the respective rights and obligations of the City and Parade with regard to that thoroughfare.

City Attorney Sullivan spoke to the proposed private street agreement suitable for City Council's review and approval. This draft agreement is the subject of considerable negotiation between the City and Parade. In general, the draft agreement would accomplish the following:

1. Establish clearly and as a matter of record at the Rockingham County Registry of Deeds that the thoroughfare is a private street owned by Parade and its successors.
2. Provide the Portsmouth Police Department with broad authority to provide law enforcement services on the thoroughfare, "as if such private street were a public street..."
3. Establish that the Public Works Department has, "no legal obligation or other responsibility to provide public works services on the Lots." The private street is located on the Lots, therefore, the Public Works Department would not be obligated to maintain the private street.
4. However, because the thoroughfare will appear to be a City street the agreement gives the Public Works Department the right, but not the obligation, to maintain the private street as necessary and bill the costs to the Owner of the private street, plus 15%.
5. Because the thoroughfare will appear to be a public street the Owner is obligated to maintain the street, "in a manner consistent with the City's adjacent streets in the Central Business District", so that the City will not bear the blame if the private street is not well maintained.
6. The Owner would be obligated to post signage that is, "satisfactory to the City notifying the public that the Lots are private property and that the Private Street is a private way.



7. Because it is likely that the private street will become one of the main traveled areas in the downtown, the Owner is obligated to keep the street open for travel, except for, "four (4) days per calendar year provided that the Owner has first obtained the City Manager's written approval", otherwise the street closure process for the private street will be the same as the street closure process which the City Council utilizes for public streets.
8. The Developer will name the private street in the first instance, thereafter if the street name is to be changed the City's Planning Board will name the street.

In closing, the initial term of the private street agreement will be thirty-five (35) years from the date of its recording at the Rockingham County Registry of Deeds. On the expiration of that term the City and Parade Office or its successor agree to negotiate in good-faith regarding the future of the private street.

Councilor Smith moved to authorize the City Manager to negotiate and execute a private street agreement with Parade Office, LLC in substantial conformance with the draft agreement which has been presented to the City Council. Seconded by Councilor Hejtmanek.

Councilor Dwyer asked if it is part of the plan to have parking along the street. City Attorney Sullivan said there will still be parking but the decision will be made by the developer. Further, parking will not be enforceable by City parking officials and there will be no parking meters. City Manager Bohenko said the parking on the street may be assigned or it could be 2-hour parking. Councilor Dwyer said that this could cause problems and the parking will need to be controlled. She asked if the agreement precludes the use of parking meters. City Attorney Sullivan said the City does not control parking on private streets.

Councilor Smith inquired as to the length of the agreement being 35 years. City Attorney Sullivan advised the City Council that there were many lengthy discussions on the length of the agreement and City Manager Bohenko recommended 25 years and the developers wanted 35 years. City Manager Bohenko informed the City Council that the original agreement had no time length. Councilor Smith said he feels the agreement should be for a shorter length of time.

Councilor Spear said that there are issues with the agreement as presented. He said the street will look like a City street and asked if there was interest in selling that portion of land to the City. City Manager Bohenko advised the City Council that discussions were held regarding that, but the developer felt a change would hold up the agreement.

Councilor Kennedy said that she agreed with Councilors Dwyer and Spear and is concerned with the signage for the street. She said we need to go back and look at this matter and have further discussion.

Mayor Ferrini said we could postpone action and have the agreement brought back. City Attorney Sullivan said he spoke with the developer and has been advised that the property is about to be pledged with the street as collateral for the closing of the loan. Councilor Dwyer said she does not feel anything that the Council does would take away from pledging the property.

Councilor Pantelakos moved to suspend the rules in order to allow Josh Anderson of Portwalk address the Council. Seconded by Councilor Dwyer and voted.

Mr. Anderson informed the City Council that they have secured financing for the hotel and the street has been used as collateral for the loan and any changes to that would cause problems moving forward.

Councilor Dwyer said that the City has gone out on a limb for this project and there is a concern with the lack of parking for the hotel and condominiums. Mr. Anderson advised the City Council that the Site Review Agreement requires parking on the private street. Councilor Dwyer asked how the parking would be controlled. Mr. Anderson said the parking will be controlled as it best suits the development. City Attorney Sullivan said that the Site Review plan does show parking on the street and we can enforce the agreement against the developer.

Councilor Smith suggested recessing the meeting in order to enter in a Non-Meeting with Counsel to allow for further discussion on the agreement. City Manager Bohenko recommended completing the rest of the agenda and then entering into a Non-Meeting with Counsel. Mayor Ferrini said that we will hold off on this matter until the end of the meeting and the Council will conduct a Non-Meeting with Counsel and come back with a vote on the agreement.

Motion was not voted on.

5. Request to Authorize a Temporary Public Art Exhibit on Peirce Island and Donation Acceptance

City Manager Bohenko informed the City Council that Dale Rogers, a Haverhill MA sculptor, has asked for permission to install a temporary public art exhibit on Peirce Island. The entire process including setup and disassembly will occur from August 12 through 19, 2009. He reported that Public Works Director Parkinson, the City's Legal Department, and the Peirce Island Committee have all reviewed the artist's proposal and agree that the proposal is feasible and would be a beneficial community public art exhibit.

In addition, the exhibit consists of up to twenty, eight-foot high, dog sculptures constructed of steel and placed at various locations on the island to be determined by the Public Works Director, the Peirce Island Committee and Mr. Rogers. The artist will be responsible for all costs associated with the installation, un-installation, insurance, site restoration, etc. and will provide a check held in escrow to ensure that the City will bear no cost for restoration. These and other conditions, including a \$1,000.00 donation from the artist are included in the Memorandum of Understanding (MOU) between the City and the artist which has been included in the Council packet for review.

Councilor Smith moved to authorize the City Manager to negotiation and enter into a memorandum of understanding with Dale Rogers for purposes of a temporary public art exhibit and to accept the donation of \$1,000.00 from Mr. Rogers for the benefit of Peirce Island. Seconded by Councilor Kennedy.

Councilor Novelline Clayburgh expressed concern regarding potential damage to the area from the weight of the sculptures. City Manager Bohenko said that the funds in escrow would be used for that purpose.

Motion passed.

City Manager's Informational Items

2. Business Week Names Portsmouth as the Best Place for Starting a Business in NH

City Manager Bohenko announced that Business Week has named Portsmouth as the best place for starting a business in New Hampshire.

3. Update on Zoning Revision Project

City Manager Bohenko informed the City Council that the Planning Board and City staff has made substantial progress in their comprehensive overhaul of the City's Site Review Regulations and Zoning Ordinance.

In an effort to accomplish this, the Planning Board has held dozens of its own sessions and worked to incorporate the very valuable input of local boards through meetings with the Historic District Commission, Conservation Commission, Committee on Sustainable Practices, Economic Development Commission and various neighborhood groups. He said a final draft of the Zoning Ordinance is nearing completion. The next step will invite the public to provide feedback on the draft zoning ordinance and site review regulations. In closing, public hearings at the Planning Board level are expected to begin early this summer, followed by public hearings before the City Council.

City Manager Bohenko also advised the City Council that there will be a Tea Party Demonstration on April 15<sup>th</sup> in Market Square.

City Manager Bohenko also informed the City Council that the FY10 Budget will be released on Friday, April 10<sup>th</sup>.

**B. MAYOR FERRINI**

1. \* Portsmouth Middle School

Mayor Ferrini said he is planning to bring a bonding resolution for the Middle School project for first reading at the April 20, 2009 City Council meeting. He further advised the City Council that a public hearing and adoption of the resolution would not be scheduled until more information is provided on school aid. City Manager Bohenko asked Mayor Ferrini what figure he would like to have inserted in the bonding resolution. Mayor Ferrini advised City Manager Bohenko that he would get that information to him before the next Council meeting.

2. Proposed Policy for Open Space Committee

Mayor Ferrini spoke to the proposed Policy for the Open Space Committee. He reviewed the policy which reads as follows:

*There shall be established a policy by the City Council that the Recreation Board, Peirce Island Committee, Conservation Commission, and other Blue Ribbon Committees as deemed necessary meet on a quarterly basis with the Chairman of the aforementioned Boards and Commissions, along with their City Council liaison. (Quarterly meetings to take place March, June, September and December.) Subsequent to the quarterly meetings, the chairman of the aforementioned Boards and Commissions shall report to the City Council at their next available meeting. The quarterly meetings shall be for the purpose of reviewing mutual concerns and bringing those to the attention of the City Council.*

Councilor Dwyer said that Mayor Ferrini charged Councilors Pantelakos, Spear and herself to structure the committee and a great deal of time has been spent on this matter. She said the goal is to strengthen the process of the committee and this policy represents a step in the direction to move forward. Councilor Dwyer advised the City Council that other policies may be brought forward in the future.

Councilor Dwyer moved to adopt the Policy for an Open Space Committee, as presented. Seconded by Councilor Smith.

Councilor Kennedy said that this policy will be in effect through the length of this Council. City Manager said that is correct and the new City Council could re-affirm the policy for the length of their term.

Mayor Ferrini announced that the committees that were affected by this process and appointments withheld would be brought forward in the future for approval by the Council.

Councilor Novelline Clayburgh thanked Mayor Ferrini and the Committee for coming forward with this policy.

Motion passed.

3. \*Update on Stimulus Package

Mayor Ferrini said he met with Governor Lynch and various Mayors last week to discuss the stimulus package. He said we are all beginning to learn how funds would be dispersed to communities from the federal government.

City Manager Bohenko informed the City Council that a matrix has been comprised of all funds we have applied for. He announced that we have received funding approval for the \$2,200,000.00 State Street project.

Mayor Ferrini announced that the Blue Ocean Society for Marine Conservation will be holding its annual Earth Day clean-up on April 18<sup>th</sup> beginning at 10:00 a.m. on Peirce Island.

**C. COUNCILOR SMITH**

1. Traffic & Safety Committee Action Sheet & Minutes of the March 12, 2009 meeting
3. Report Back Re: Use of Roller Skates, Coasters and Skate Boards Ordinance

Councilor Smith moved to approve and accept the action sheet and minutes of the March 12, 2009 Traffic & Safety Committee meeting. Seconded by Councilor Pantelakos.

Councilor Smith reviewed the recommendations from the Traffic & Safety Committee regarding the Skate Board/Roller Blade Ordinance.

**Skate Board/Roller Blade Ordinance Recommendations from Traffic & Safety Committee**

- *Lifting ban outside of the downtown area,*
- *Helmets required under age 16,*
- *Night time prohibited unless reflective gear is used,*
- *Unlawful operation prohibited that destroys property,*
- *Applies to all non-motorist devices; and*
- *Define the downtown area as Central Business District A and B*

Councilor Smith recommended that the City Attorney review the letter from Erin Mack outlining definitions for possible inclusion into ordinance.

Motion passed with Councilor Kennedy abstaining from voting.

2. Parking Committee Action Sheet & Minutes of the March 12, 2009 meeting

Councilor Pantelakos moved to approve and accept the action sheet and minutes of the March 12, 2009 Parking Committee meeting. Seconded by Councilor Dwyer and voted. Councilor Kennedy abstained from voting.

**D. COUNCILOR PANTELAKOS**

1. \*Request to change Budget Meeting

Councilor Pantelakos withdrew her request.

## **XII. MISCELLANEOUS/UNFINISHED BUSINESS**

At 9:05 p.m., Councilor Smith moved to enter into a Non-Meeting with Counsel regarding Private Street Agreement between Portwalk and the City of Portsmouth -Negotiations – RSA 91-A:2, I (b-c). Seconded by Councilor Dwyer. On a unanimous roll call vote 9-0, motion passed.

At 10:10 p.m., Mayor Ferrini called the meeting back to order.

Councilor Smith moved that the City Council come out of Non-Meeting with Counsel. Seconded by Councilor Pantelakos and voted.

### **XI. A.4. Private Street Agreement between Portwalk and the City of Portsmouth**

Councilor Pantelakos moved to authorize the City Manager to negotiate and execute a private street agreement with Parade Office, LLC in accordance with the discussion held in Non-Meeting with Counsel. Seconded by Councilor Smith.

#### **Certain Private Street Agreement Changes as Outlined:**

- *The street will be one-way from Deer Street to Hanover Street*
- *Allowance of four street closures for events per year referred to the City Manager with power and any further events would require City Council approval.*
- *Parking would be controlled with Pay and Display meter systems or whatever the City Council determines. Further the City would be responsible through an easement agreement that otherwise would deal with the parking meters and would create a special revenue fund for the monies collected by the meters. The funds would be used to offset maintenance and improvements to the street. In the winter time our plows would clear the area of snow with the City receiving reimbursement for that service. In addition, the City would not be responsible for the full cost of maintenance and improvements to the street, the property owners would be responsible for all costs beyond the money in the special revenue account.*

Motion passed.

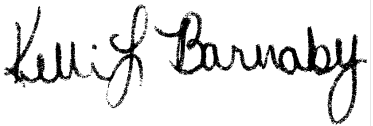
Councilor Spear said the next time an update on the Islington Street Corridor is made he would like to have information on the cost of burying the utilities underground. City Manager Bohenko advised Councilor Smith that those numbers are out of our hands.

Councilor Spear suggested a work session be established in the summer to discuss the Parking Study and other findings. Councilor Smith said that the Parking Study is available for review on the City's website.

Councilor Novelline Clayburgh said she is the PDA Liaison and members of the Board wanted the City Council to be made aware of the value that City Manager Bohenko provides to the PDA Board.

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

At 10:30 p.m., Assistant Mayor Blalock moved to adjourn. Seconded by Councilor Pantelakos and voted.

A handwritten signature in black ink that reads "Kelli L. Barnaby". The signature is written in a cursive style and is positioned above the typed name and title.

Kelli L. Barnaby, CMC/CNHMC  
City Clerk