

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, DECEMBER 7, 2009

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

At 5:45 p.m., the City Council had their outgoing photograph taken for the 2008-2009 term.

At 6:00 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 7:15 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 Dwyer led in the Pledge of Allegiance to the Flag.

PROCLAMATION

1. Human Rights Amnesty International Group 550 – Peter Somssich

Councilor Spear read the Proclamation declaring December 10th as Human Rights Day for 2009. Mayor Ferrini presented the Proclamation to Peter Somssich of the Amnesty International Group 550 who accepted it with thanks and appreciation.

V. ACCEPTANCE OF MINUTES – NOVEMBER 16, 2009

Councilor Smith moved to approve and accept the minutes of the November 16, 2009 meeting. Seconded by Councilor Pantelakos and voted. Mayor Ferrini abstained because he was not present for the entire evening.

VI. PUBLIC COMMENT SESSION

Roger Goldenberg spoke in support of the Percent for Arts for the Fire Station. He represented the Leftous Marching Band and would like the City Council to continue the Percent for Arts program. He said this should remain for funding future projects. The band played a song for the City Council.

Martin Cameron expressed his opposition to funding the Percent for Arts project.

Ralph DiBernardo asked if the public hearing this evening would be continued to next Monday Mayor Ferrini confirmed that the public hearing would be continued to Monday.

Bill St. Laurent asked that the City Council reconsider the actions from the last meeting and have the Percent for Arts funding rescinded for Fire Station 2. He said that the Station has a beautiful sculpture currently and does not see a need for a new art display.

VII. PUBLIC HEARINGS

- A. RESOLUTION APPROPRIATING THE SUM OF SIX HUNDRED FIFTY-NINE THOUSAND, THREE HUNDRED NINETY-FOUR DOLLARS AND FIFTY CENTS (\$659,394.50) FOR EXPENSES RELATING TO THE WATER PORTION OF THE STATE STREET UTILITIES AND ROAD UPGRADE PROJECT

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

City Manager Bohenko requested that Finance Director Belanger speak to this matter before speakers start participating. Finance Director Belanger informed the City Council in June of 2009, Standard & Poor's Rating Group, one of the nation's largest bond rating agencies, upgraded the City of Portsmouth bond rating from AA to AA+. This is the second highest rating obtainable from Standard & Poor's. In increasing the rating, S&P cited the City's good management practices, consistent financial position and moderate-to-low debt burden as positive factors. In addition, Moody's Investors Service affirmed its AA2 bond rating for the city, citing strong and stable financial operations, a sizable and diverse economic base and the low overall debt burden.

Finance Director Belanger reported that the City was able to take advantage of its excellent bond rating when on June 15, 2009, the City of Portsmouth issued a \$21,000,000 bond. The proceeds of the bond will finance \$5 Million of General Fund capital projects and \$16 Million for the Madbury Water Treatment Plant. In addition to the \$21 million principal, the City received a premium of \$867,624.35 from the winning underwriter at closing. A premium is the amount by which the purchase price of a bond is greater than its par value. Under certain market conditions, in order to enhance the marketability of the bonds, bond underwriters will structure their bids with bond premiums. In this case, the City of Portsmouth received an average net interest rate of 3.76% and a bond premium of \$867,624.35. Under Federal Tax Law and State Statutes, the City is restricted on how to appropriate and use these funds.

RSA 33:3 states that any premium received cannot be used to increase the amount to be spent for the purpose for which the loan was originally incurred. Therefore, the City cannot use this money to increase the costs of the projects set forth for the \$21 Million bond issuance. However, the RSA states "*a city by a vote of 2/3 of the city council may authorize the expenditure for the premiums received for any purpose or purposes for which bonds or serial notes may be issued for an equal or longer period of time.*"

The bond premium of \$867,624.35 has been allocated respectively to the Water Fund in the amount of \$659,394.50 and the General Fund in the amount of \$208,229.85.

City Manager Bohenko said in accordance with State statute, he would recommend the City Council authorize and appropriate the bond premium to be used from the General Fund and the Water Fund for the State Street Utilities and Road Upgrade project as described below.

The State Street Utilities and Road Upgrade project was driven by the sewer separation work, which includes the replacement of failing brick sewer line in the street, and includes upgrades to other underground utilities in the street. Streetscape improvements including new brick sidewalk, curbing and period lighting will complete the project. On November 10, 2008, the City Council adopted a resolution authorizing the Sewer Fund to participate in the State's revolving loan fund program (SRF) up to \$2,200,000 for costs associated with the sewer portion of this project. The City is also eligible under this program to receive up to 50% of the \$2.2 Million as a grant through the American Recovery and Reinvestment Act (ARRA). Project costs of approximately \$1.9 Million associated with the Water Fund and the General Fund will be funded through capital outlay in the respective funds.

As this project has a useful life that exceeds the original bond issue from which the premiums were received, and would be eligible for bonding under the Municipal Finance Act, it is in the best interest of the City to utilize the premium of \$867,624.35 to fund portions of the costs associated with the General and Water Funds. The total project cost of \$4,086,893.00 will be shared between General, Water, and the Sewer Fund.

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

- B. RESOLUTION APPROPRIATING THE SUM OF TWO HUNDRED EIGHT THOUSAND, TWO HUNDRED TWENTY-NINE DOLLARS AND EIGHTY-FIVE CENTS (\$208,229.85) FOR EXPENSES RELATING TO THE GENERAL FUND PORTION OF THE STATE STREET UTILITIES AND ROAD UPGRADE PROJECT

Mayor Ferrini read the legal notice, declared the public hearing open and called for speakers. After three calls and no speakers, Mayor Ferrini declared the public hearing closed.

- C. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE AND ZONING MAP BY DELETING IT IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 10
- D. ORDINANCE AMENDING CHAPTER 11, ARTICLE VIII, SECTION 11.801 TO REDUCE THE THRESHOLD FOR SITE PLAN REVIEW OF MULTI-FAMILY RESIDENTIAL UNITS FROM FIVE (5) TO THREE (3) UNITS
- E. ORDINANCE AMENDING CHAPTER 11, ARTICLE VI – COMPREHENSIVE PLAN INFORMATION BY DELETING IT IN ITS ENTIRETY AND INSERTING IN ITS PLACE A NEW ARTICLE VI – REFERRALS TO PLANNING BOARD

Mayor Ferrini read the legal notices, declared the public hearing open and called for speakers. Mayor Ferrini advised the public that the hearing will be recessed and continued on December 14, 2009. He reported that the hearing will be capped at 90 minutes and informed the public that attorney's will be making their presentations at the December 14, 2009 meeting.

Sandra Dika, Historic District Commission Chair, said the Commission has put forward a number of changes and the reclusion of some parcels from the Islington Street corridor. She said she would like to continue the successful corridor to extend Middle Street to South Street. In addition, the district would be extended from Islington Street to Dover Street and Union Street to Bartlett Street and Jewel Court. Ms. Dika advised the City Council that the Historic District Commission would like to control the development pressures in that area and some buildings from being demolished.

Paige Roberts, Planning Board Vice Chair, said many meetings were held on this matter with groups and residents speaking in support of the ordinance. She advised the City Council that this remains a working document and the Planning Board looks forward to making improvements if necessary.

Steve Miller, Conservation Commission Chair, said that the Conservation Commission is advisory to the Planning Board and has worked closely with them on this ordinance. A great deal of work and effort has been spent on this matter. He asked the City Council to support and adopt the ordinance.

Barbara Hayes, Portsmouth resident, said in 1998 the Conservation Commission worked hard for three years trying to save the trees on Route 1. She said new businesses with this ordinance would be set closer to the road with parking on the sides or in the back of the building. She said she is concerned with losing more trees and asked that the City Council consider that issue when moving forward with the ordinance.

Donald Coker, Planning Board member and resident, said he is opposed to the Continuing Care Retirement Community (CCRC). He asked that the Council think as planners when voting for this ordinance. He said it may be premature to change the zoning due to railroad advancements and developments. Mr. Coker reported that the Planning Board has approved 328,000 square foot of office space in the last year during a down economy. He urged the City Council to take the entire proposal and wait until the new City Council is on board and act upon the ordinance by April 1, 2010. In addition, he said that the CCRC should be separated out of the ordinance.

George Carlisle, Portsmouth resident, said that the proposed zoning ordinance is good but there are two areas that should be changed in the Central Business District. The requirement for parking and the rezoning of lower Islington Street. He spoke to the zoning that has taken place in the last 15 years. The requirement of 1 parking space for every 500 square feet of living space will stop the development of residential condominiums in the downtown. The downtown condominiums subsidize the retail and commercial property in the downtown.

Rick Szilagyi, NH Sign Association, expressed concern with changes to signs under the ordinance and how it would affect businesses. He would like to provide some sample signs for consideration.

Ralph DiBernardo, Portsmouth resident, spoke opposed to the CCRC and said the information provided by Islington Woods Development had been available on the City's website but is no longer available. He suggested that the information be placed back on the website for access by the public. Mr. DiBernardo voiced concern with the lack of abutter notices and the Planning Board would not explain why they were not sent. He also expressed his frustration when the Planning Board at the third public hearing indicated they would not take questions from the public. In closing, he urged the City Council to remove the CCRC from the Zoning Ordinance.

John Grossman, Portsmouth Advocates, said the demolition of buildings threatens the character of Portsmouth. He spoke to Islington Street and said there is no distinct character in that area when you reach Bartlett Street. He said the ordinance should extend from Islington Street to Bartlett Street. He also spoke opposed to removing any properties from the Historic District.

Mark Allinson, Portsmouth resident, spoke to the Master Plan and expressed his concern with the zoning for property across from McKinley Road. He said the property should remain in Office Research. He spoke to the petition with 392 signatures that was submitted to the City Council when they were considering changing the zoning to allow for Smutty Nose Brewery to be on Lafayette Road. In addition, he submitted a letter from his 89 year old father who is adamantly opposed to the zoning ordinance with the creation of a gateway on Lafayette Road. The letter indicates that the City Council should consider the impact on the neighborhood and that the area should remain Office Research.

Attorney Paul McEachern, Portsmouth resident, said that the downtown is a success but does bring some problems. He said Portsmouth is lively at night because of the businesses and with this ordinance most of the City will become non-conforming. He advised the City Council that the new ordinance is radical and suggested that a study be done on development in the downtown to see how much it has contributed to taxes. He said the ordinance is not consistent and currently indicates that flags are not allowed. Attorney McEachern urged the City Council not to move fast on the adoption of this ordinance.

Elizabeth Stalcup, Portsmouth resident, said she is opposed to the Gateway Zoning. She said that Lafayette Road should remain Office Research to keep a boundary from the businesses and residential areas. She advised the City Council that she feels the ordinance change would change the values of the homes in the area.

Shaun Rafferty, Portsmouth resident, said the ordinance contains many changes that he is in favor of and some that he does not agree with or understand. He would like the City Council to allow more time before voting on the ordinance in order to provide additional time for input from the public. Mr. Rafferty pointed out that this ordinance was only brought to the City Council three weeks ago and that is not enough time to review and comprehend such a complex document.

Kathleen Hersey, Portsmouth resident, expressed concern with Lafayette Road being a gateway into the City and feels this zoning change would create a neon highway.

Margot Doering, Portsmouth resident, spoke in support of the extension of the Historic District to Islington Street. She spoke to the beautiful homes that are on Islington Street and the character of the area.

Tom Morgan, Portsmouth resident, spoke in favor of expanding the Historic District. He said we take historic resources and make a wonderful quality of life. He would like to see the Historic District expanded further.

Andy Fleisher, Portsmouth resident, said he would like to see the impact fee allowed to continue. He urged the City Council to get this ordinance right the first time rather than re-evaluate it 6 months from now. In addition, he requested that more concise information be provided on-line.

Martha Fuller Clark, Portsmouth resident, said we need to protect and enhance the quality of life for the residents of the community. She feels that more community input is needed before this document is moved forward for a vote. She addressed the issue of the removal of buildings from the historic district based on the new ordinance and urged the Council to keep that section zoned as it currently exists to keep the buildings within the historic district.

Zelita Morgan, Portsmouth resident, spoke in support of the expansion of the historic district. She said she is not in favor of the removal of buildings from the district. In addition, she expressed her opposition to the creation of a CCRC zone.

Dennis Minard, Portsmouth resident, spoke opposed to the zoning ordinance and the changes to Islington Street. He said the Islington Street area does not have adequate drainage system for the proposed development under the CCRC zone. He said that in addition to drainage issues there will be a tremendous impact on traffic in the area.

Councilor Smith moved to continue the public hearing until December 14th. Seconded by Assistant Mayor Blalock and voted.

At 9:40 p.m., Mayor Ferrini declared a brief recess. At 9:55 p.m., Mayor Ferrini called the meeting back to order.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation for Bench in Memory of Carl Collins
- Peter Donovan - \$1,500.00
- (Sample motion – move to approve and accept the donation for a bench in memory of Carl Collins, as listed)***

Councilor Smith moved to approve and accept the donation for a bench in memory of Carl Collins, as listed. Seconded by Councilor Pantelakos and voted.

- B. Acceptance of Donation to the Coalition Legal Fund
- Town of Newbury - \$2,000.00
- (Sample motion – move to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund)***

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

- C. Acceptance of Donation to the Library Capital Campaign
- Stephen and Susan Tober - \$1,000.00 *(Fulfills contribution)*
- (Sample motion – move to approve and accept the donation, as listed to be placed in the Library Capital Campaign Fund)***

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

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Adoption of Resolution Appropriating the Sum of Six Hundred Fifty-Nine Thousand, Three Hundred Ninety-Four Dollars and Fifty Cents (\$659,394.50) for Expenses relating to the Water Portion of the State Street Utilities and Road Upgrade Project

Councilor Smith moved to adopt the Resolution in the sum of \$659,394.50, as submitted. Seconded by Councilor Pantelakos.

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

- B. Adoption of Resolution Appropriating the Sum of Two Hundred Eight Thousand, Two Hundred Twenty-Nine Dollars and Eighty-Five Cents (\$208,229.85) for Expenses relating to the General Fund Portion of the State Street Utilities and Road Upgrade Project

Councilor Smith moved to adopt the Resolution in the sum of \$208,229.85, as submitted. Seconded by Councilor Pantelakos.

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

- C. Second reading of Ordinance amending Chapter 10 – Zoning Ordinance and Zoning Map by deleting it in its entirety and replacing it with a new Chapter 10
- D. Second reading of Ordinance amending Chapter 11, Article VIII, Section 11.801 to Reduce the Threshold for Site Plan Review of multi-family residential units from five (5) to three (3) Units
- E. Second reading of Ordinance amending Chapter 11, Article VI – Comprehensive Plan Information by deleting it in its entirety and inserting in its place a new Article VI – Referrals to Planning Board

Councilor Dwyer moved to postpone second reading until December 14th regarding Chapter 10 of the Zoning Ordinance and Zoning Map by deleting it in its entirety and replacing it with a new Chapter 10; and further postpone second reading until December 14th regarding Chapter 11, Article VIII, Section 11.801 to reduce the Threshold for Site Plan Review of multi-family residential units from five (5) to three (3) Units; and postpone second reading until December 14th regarding Chapter 11, Article VI – Comprehensive Plan Information by deleting it in its entirety and inserting in its place a new Article VI-Referrals to Planning Board. Seconded by Councilor Pantelakos and voted.

Councilor Dwyer said given the work session on November 30th and input from the public she feels that we need to schedule another work session between the December 14th and December 21st meetings. She recommended conducting the work session on Tuesday, December 15th following the public hearing.

Councilor Dwyer moved to conduct a work session on December 15th at 6:30 p.m. in the Eileen Dondero Foley Council Chambers regarding all three ordinances to follow the public hearing if necessary. Seconded by Councilor Pantelakos.

Councilor Smith spoke in support of a work session and said that this ordinance will affect everyone in the City.

Councilor Kennedy said she is in agreement with Councilor Smith and said there is no need to rush the passage of the ordinances before the end of the year.

Councilor Dwyer said that we are all feeling that some items within the ordinance could be changed and some areas may need more work. She said we should look at what we can and cannot work out in the work session.

Assistant Mayor Blalock said he agrees with Councilor Dwyer. He said it is important to have a work session to see where the City Council is and have some kind of resolution before the end of the year. He spoke to the need for free flowing dialogue.

Motion passed.

- F. Third and final reading of Ordinance amending Chapter 7, Article III, Section 7.336 – One Way Streets – Parker Street – Northerly from Tanner Court to Hanover Street

Councilor Pantelakos moved to pass third and final reading of the Ordinance, as submitted. Seconded by Councilor Novelline Clayburgh and voted.

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Donald Allison, Eastern 20 Mile Race, requesting permission to hold the annual Eastern States 20 Mile Road Race on Sunday, March 28, 2010 ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Midge Nelson, Seacoast Rotary Club, President-Elect, requesting permission to hold the “Turkey Trot” on Thanksgiving Day 2010 ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Sarah Curtin, American Foundation for Suicide Prevention, requesting permission to hold the 6th Annual Out of the Darkness Community Walk on Saturday, September 25, 2010 ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from Marsie Silvestro and Paula Nikonow, A Safe Place, requesting permission to hold the Keep Your Paws to Yourself Dog Walk on Saturday, April 24, 2010 ***(Anticipated action – move to refer to the City Manager with power)***
- E. Acceptance of Donations for Art-Speak
- Jamie Calderwood \$20.00
 - Cash \$20.00
 - Nancy Novelline Clayburgh \$20.00
 - Richard Candee \$50.00
 - Elisabeth Robinson \$50.00
 - Sheila & John Shea \$50.00
 - Mike Kenslea \$100.00
 - Elaine & Shel Krasker \$100.00
 - Leanne Spees \$100.00
 - Peter Michaud \$150.00
 - McHenry Architecture \$250.00
 - M. Christine Dwyer \$1,000.00
- (Sample motion – move to accept and approve the donations to Art-Speak for operations, as presented)***

Councilor Smith moved to adopt the Consent Agenda. Seconded by Councilor Novelline Clayburgh and voted.

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

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letters regarding Proposed Zoning Ordinance Changes:
- *Barbara Webber*
 - *Tom and Zelita Morgan*

Councilor Kennedy moved to accept the letters and place them on file. Seconded by Councilor Novelline Clayburgh and voted.

- B. Letter from Rodney Rowland, Strawberry Banke, requesting the loan of the John Blunt painting for their upcoming gallery exhibit, Painting Portsmouth, to be held from May 1, 2010 to October 31, 2010

Councilor Kennedy moved to allow the loan of the John Blunt painting to Strawberry Banke for their upcoming gallery exhibit to be held from May 1, 2010 to October 31, 2010. Seconded by Councilor Novelline Clayburgh and voted.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Approval of Non-Profit Corporation for Public Access

City Manager Bohenko spoke to the presentation held at the last meeting with Assistant City Attorney Woodland and John Gregg, Chair of the Cable Television and Communications Commission.

Councilor Smith moved to authorize the Cable Commission to continue to work towards the establishment of a non-profit organization, which would include a mayoral appointment, to promote non-commercial public access television and internet media. (The Cable Commission will bring forward at a later meeting the slate of proposed initial directors for the City Council's ratification); and further move to authorize the City Manager to make available to the non-profit organization, when it is so-organized, a public access channel for its use. Seconded by Councilor Pantelakos and voted.

2. Request to Reschedule a Parking Garage Work Session

City Manager Bohenko informed the City Council that Ruth Griffin, Chair of the Portsmouth Housing Authority, has requested that the work session be postponed until January 2010 because of scheduling conflicts.

Councilor Dwyer moved to reschedule the work session prior to the regular meeting on Tuesday, January 19, 2010. Seconded by Councilor Hejtmanek.

Councilor Spear said he read the correspondence from PHA and based on the Boards strong opposition to construction of a multi-level parking garage on the land owned by the PHA adjacent to the Feaster Apartment building there would not be a need to have them attend the work session.

Councilor Spear moved to amend the motion to exclude the Portsmouth Housing Authority from the work session. Seconded by Councilor Pantelakos.

Councilor Smith said he is not in favor of the amendment to the motion because he feels that the PHA should still be invited to attend the work session and provide input on the subject matter.

Councilor Dwyer said it is important to discuss design options and it may help to have the PHA there and that some portion of the property may be able to be used as a parking garage.

Motion to amend **failed** to pass. Councilor Spear voted in favor. Assistant Mayor Blalock, Councilors Novelline Clayburgh, Dwyer, Smith, Kennedy, Hejtmanek, Pantelakos and Mayor Ferrini voted opposed.

Main motion passed.

3. Proposed Policy on Acquisition of Public Art

City Manager Bohenko informed the City Council that the proposed policy on the Acquisition of Public Art is before you this evening and action is anticipated to take place at the December 21st City Council meeting.

4. Report Back on Request to Rename a portion of Woodbury Avenue between Market Street and the Newington Town line to "Market Street"

City Manager Bohenko asked Planning Director Taintor to address this item. Planning Director Taintor reported that the Planning Board held a public hearing on this matter and voted to recommend not changing the name of the road.

Councilor Pantelakos moved to accept the Planning Board's recommendation to not approve the street name change, and instead investigate State and local signage, as well as contacting GPS software companies about modifying the driving directions which they provide to addresses on the commercial portion of Woodbury Avenue. Seconded by Councilor Kennedy.

Councilor Smith said he watched the meeting and said this issue goes back many years with truck traffic being a main concern to the neighborhoods. He said residents need to be protected and the truck traffic needs to be stopped.

Councilor Kennedy said she will approve the motion because the residents sided with the businesses on this matter.

Councilor Smith said he heard from some residents and they were not aware that the issue would be voted on at that particular meeting because Planning Director Taintor had indicated in the past that a vote would not take place until February 2010.

Motion passed with Councilor Smith voting opposed.

5. Report Back on Request from 172 Hanover Street for Placement and Illumination of a Temporary Sign on the Vaughan Mall and Reconsideration of the Planning Board's recommendation for a Projecting Sign

Planning Director Taintor reported that there have been issues relating to the projecting sign. He informed the City Council that the support structures for the sign were installed without approval of the City. He also indicated that there continues to be violations to the ordinance at this location and urged the City Council to accept the recommendation of the Planning Board.

Councilor Pantelakos moved to accept the recommendation of the Planning Board and defer any action on this matter until the outstanding issues have been addressed. Seconded by Councilor Kennedy.

Councilor Smith asked where the department is with getting the owner to be in conformance. City Attorney Sullivan reported that the City has sued The Page Restaurant because of violations. He informed the City Council that the restaurant was encouraging dancing to take place on the lower level of the building which requires a sprinkler system that is not in that area of the building.

Motion passed.

6. Report Back on Request from Charles A. Griffin, Esq. for Richard B. Duddy and Sue Ellen Duddy regarding Release of a portion of McClintock Avenue (paper street)

Councilor Smith moved to accept the recommendation of the Planning Board to grant the request to release any interest the City may have in this parcel of land and authorize the City Manager to execute the necessary documents. Seconded by Assistant Mayor Blalock and voted.

7. Request for a License from The Old Stove Bake Shoppe at 18 Ladd Street to install a projecting sign

City Manager Bohenko informed the City Council that this is similar to previous projecting sign requests.

Assistant Mayor Blalock moved to accept the recommendation of the Planning Board with the aforementioned stipulations and approve the request of The Old Stove Bake Shoppe to install

a projecting sign at 18 Ladd Street and further authorize the City Manager to execute a License Agreement for this request. Seconded by Councilor Pantelakos and voted.

Planning Board Stipulations:

- *The license shall be approved by the Legal Department as to content and form;*
- *Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and*
- *Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works*

8. Request for a License from Traditional Wood Works, Inc. at 207 Market Street to install a projecting sign

City Manager Bohenko informed the City Council that this is similar to previous projecting sign requests.

Councilor Pantelakos moved to accept the recommendation of the Planning Board with the aforementioned stipulations and approve the request of Traditional Wood Works, Inc. to install a projecting sign at 207 Market Street and further authorize the City Manager to execute a License Agreement for this request. Seconded by Councilor Smith and voted.

Planning Board Stipulations:

- *The license shall be approved by the Legal Department as to content and form;*
- *Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and*
- *Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works*

9. Request to Dispose of Surplus Vehicles

City Manager Bohenko informed the City Council that the City currently has seven surplus vehicles for disposal. He said in the past, we have sold the surplus vehicles through a sealed bid process to the highest bidder. According to City Ordinance Section 1.505, property valued at \$500.00 or more must receive approval from the City Council prior to bidding.

Councilor Smith moved to authorize the City Manager to dispose of surplus vehicles and other equipment by the sealed bid process. Seconded by Councilor Pantelakos.

Councilor Kennedy asked with the sealed bid process could we place the items on-line in order to get a higher price.

City Attorney Sullivan said we could place the notice on-line but the sealed bid process is that all bids are opened at the same time.

Councilor Smith asked if the information is placed on-line with details on the vehicles. City Manager Bohenko said we could place the information on-line.

Motion passed.

B. MAYOR FERRINI

1. Appointments to be Voted:
 - Catherine Ennis – Appointment to the Conservation Commission
 - Eduardo DelValle – Appointment to the Recreation Board

Councilor Pantelakos moved to appoint Catherine Ennis to the Conservation Commission until April 1, 2012. Seconded by Councilor Novelline Clayburgh and voted. Ms. Ennis is filling the expired term of Skye Maher.

Councilor Pantelakos moved to appoint Eduardo DelValle to the Recreation Board until April 1, 2012. Seconded by Councilor Kennedy and voted. Mr. DelValle is filling the expired term of Paul Houlares.

C. COUNCILOR NOVELLINE CLAYBURGH

1. Motion to Reconsider November 16, 2009 City Council Action Re: Percent for Arts Appropriation in the amount of \$36,939.00

Councilor Novelline Clayburgh requested the City Council reconsider the vote of November 16th for the Percent for Arts.

Councilor Novelline Clayburgh moved to suspend the rules in order to reconsider the action of the City Council at the November 16, 2009 meeting regarding Percent for Arts Appropriation in the amount of \$36,939.00. Seconded by Councilor Pantelakos.

City Attorney Sullivan advised the City Council that suspension of the rules requires a two-thirds vote.

On a roll call vote 5-4, motion to suspend the rules in order to reconsider the action of the City Council at the November 16, 2009 meeting regarding Percent for Arts Appropriation in the amount of \$36,939.00 ***failed*** to pass. Councilors Novelline Clayburgh, Smith, Kennedy, Hejtmanek and Pantelakos voted in favor. Assistant Mayor Blalock, Councilors Dwyer, Spear and Mayor Ferrini voted opposed.

D. COUNCILOR DWYER

1. *JBC Update Re: Middle School

Councilor Dwyer reported that the first meeting of the Joint Building Committee took place in November and there is a signed contract with JCJ Architects. She indicated there will be a contract manager and said that essential design will take place. The Committee will be making a recommendation for the replacement of alumni field. Councilor Dwyer informed the Council that School Business Administrator Bartlett is looking at moving students off site during the construction phase of the project. She said the major concern was not about saving money but to consider the design and safety for the students.

E. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the November 12, 2009 meeting

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

2. Parking Committee Action Sheet and Minutes of the November 12, 2009 meeting

Councilor Smith moved to approve and accept the action sheet and minutes of the November 12, 2009 Parking Committee meeting. Seconded by Councilor Pantelakos.

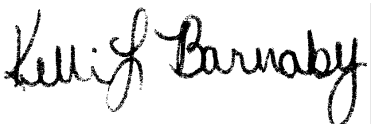
Councilor Smith reported that the annual Omnibus Ordinance will be brought forward after the first of the year for consideration by the Council. He also announced that free holiday parking will be provided December 14, 2009 through January 2, 2010.

Motion passed with Councilor Kennedy voting opposed.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

At 11:00 p.m., Councilor Pantelakos moved to adjourn. Seconded by Councilor Smith and voted.



Kelli L. Barnaby, CMC/CNHMC
City Clerk