

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: TUESDAY, JANUARY 19, 2010

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

At 6:00 PM a work session was held with members of the Portsmouth Housing Authority regarding potential Parking Garage Locations.

I. CALL TO ORDER [7:00PM or thereafter]

Mayor Ferrini called the meeting to order at 7:10 p.m.

II. ROLL CALL

Present: Mayor Ferrini, Assistant Mayor Novelline Clayburgh, Councilors Lister, Hejtmanek, Spear, Dwyer, Coviello, Kennedy and Smith.

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

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

PRESENTATIONS

1. Report Back from Economic Development Commission (EDC) Re: Flags – Josh Cyr, EDC Representative

Josh Cyr, Economic Development Commission member, explained the process of the sub-committee formed to review the policy regarding flags. He stated they also included projecting signs and sandwich board sidewalk signs as they are all inter-related. He explained that the committee has forwarded a proposed policy which they feel will streamline and clarify the process, while understanding that no one solution will fit all businesses.

City Manager Bohenko stated that this will be brought forward as a policy on February 1, 2010.

2. Community Child Care Center Update on Activities – Debra Stokel

Debra Stokel, Co-Operations Director of the Community Child Care Center stated she is not here to request funding, but to update the Council on the affect the economy and budget cuts have had on their Child Care Center. She explained that the lower – middle income families are having to make hard choices including not working at all because they can no longer afford the day care costs.

Responding to questions from Councilor Kennedy and Councilor Lister regarding funding, Kathryn Edison, Marketing and Fund Development Coordinator, explained the funding for the Child Care Center includes subsidies, donations, grants and tuition fees.

Assistant Mayor Novelline Clayburgh stated she enjoyed being on the Board of Directors and appreciates their work. She asked how many students are from Portsmouth. Kathryn Edison stated 80%.

V. ACCEPTANCE OF MINUTES – DECEMBER 21, 2009

Councilor Smith moved to approve and accept the minutes of the December 21, 2009 City Council meeting. Seconded by Assistant Mayor Novelline Clayburgh and voted, with Councilors Lister and Coviello abstaining.

VI. PUBLIC COMMENT SESSION

Michael De La Cruz - spoke regarding the possibility of a parking garage at the Worth Parking Lot stating that he spoke to the tenants in that area awhile back who were all in favor of this because it draws foot traffic to their businesses. He concluded by stating that in regards to historic preservation, this project can be done with the right effort.

Skye Maher and Bert Cohen – spoke regarding the next Phase of Sustainable Portsmouth planning committee which will hold a presentation of their vision on February 1, 2010 to the City Council. Ms. Maher stated that Phase II of the process will consist of meetings in the next 4 weeks with the first one to be held January 20, 2010 at the High School cafeteria at 7:00 P.M. and urges the Council to attend.

John McMaster – stated he is representing Bob Shaines who submitted a letter to the Council regarding the effect of the recently revised zoning ordinance in the Central Business District, specifically the parking impact fee. He explained that there is a business interested in purchasing the last retail unit at 121 Congress Street, but the revised parking fee of \$130,000.00 is an unreasonable and discriminatory tax. He concluded that they are hoping for a quick resolution to this issue.

VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to the New Library Building Fund
- Phyllis Eldridge - \$1,500.00 (*Fulfills contribution*)

Councilor Smith moved to approve and accept the donation to the New Library Building Fund as listed. Seconded by Assistant Mayor Novelline Clayburgh and voted.

B. Acceptance of Donations to the Coalition Legal Fund

- Town of Carroll - \$1,000.00
- Town of Newington - \$1,000.00

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

C. Acceptance of Donation Re: Bench in Memory of Mark "Smitty" Smith

- Ronald & Carol Smith - \$1,200.00

Councilor Smith moved to approve and accept the donation for a bench in memory of Mark "Smitty" Smith, as listed. Seconded by Councilor Kennedy and voted.

D. 2010 Coastal Program Grant Application

Councilor Lister move to authorize the City Manager to apply for, accept and expend a \$40,000.00 grant from the NH Department of Environmental Services' Coastal Program for the purpose of funding a portion of the acquisition costs of the 107-acre Stokel property on Pevery Hill Road/Route 33 for recreation and conservation purposes, seconded by Councilor Smith.

City Manager Bohenko explained the Recreational Needs Study has identified this as a recreation field area and that the city is looking for all grant opportunities and this is one of them.

Councilor Smith asked if we received the \$40,000.00 grant and it is not used on this specifically, could we use it for something else. City Manager Bohenko stated we would probably have to give it back. Councilor Smith asked if we could use it on just a portion of the parcel. City Manager Bohenko stated yes. He further explained that 80% of this property will remain conservation land.

Councilor Dwyer asked when we will know about the status of the property. City Manager Bohenko stated probably 2-3 months and that we will get the grant before we know about the property. He stated we are trying to bundle the grants and concluded by stating that they are continuing ongoing conversations with the Stokels.

Motion passed.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

A. First reading of Amendments to Chapter 7 – Vehicles, Traffic Parking Omnibus Ordinances

Councilor Smith moved to pass first reading for the proposed changes to Chapter 7 of the Vehicles, Traffic Parking Omnibus Ordinances, as recommended by the Parking Committee, and schedule a public hearing and second reading at the February 1, 2010 City Council Meeting, seconded by Council Dwyer.

Councilor Kennedy asked about removing the word “meter” from the ordinance. City Attorney Sullivan explained that this allows accommodation for changes in technology and broadens the scope.

Motion passed.

B. First reading of Chapter 6, Article XIII, Section 6.1307 – Prohibited Conduct – Vendor from Motor Vehicle

City Manager Bohenko asked Assistant City Attorney Suzanne Woodland to give an overview of the Vendor Committee process for bringing this ordinance forward. He first explained that originally he had recommended this ordinance be referred to a first reading at the February 1, 2010 Council meeting, but stated that if the Council prefers, they can consider this the first reading and refer it to a public hearing and second reading on February 1, 2010.

Assistant City Attorney Woodland reviewed the process the Vendor Committee and Parking Committee went through to recommend the proposed ordinance. She summarized the changes stating the ordinance would: prohibit vending from municipal parking spaces; allow the Parking Committee to designate up to three locations for vending; and set up a process by which the opportunity to use designated “vending locations” would be placed out to bid.

Councilor Smith moved to pass first reading for the proposed changes to Chapter 6, Article XIII as recommended by the Parking Committee, and schedule a public hearing and second reading at the February 1, 2010 City Council meeting, seconded by Councilor Hejtmanek.

Councilor Coviello asked why there is a limit on the time of year. City Manager Bohenko explained that there were health related issues with keeping the vehicle in compliance during the colder months as well as snow removal, etc. Councilor Coviello asked about special events, such as 4th of July and New Years Eve. Assistant City Attorney Woodland explained that these events are handled separately and need to be looked at as well, but they still have to be licensed with the City.

Councilor Dwyer asked if the price was set based on the fees charged by other cities. Assistant City Attorney Woodland stated they did review fees of other municipalities but this was based on the loss of revenue of the parking spaces themselves and further explained that this fee can be reviewed each year during the budget process. Councilor Dwyer stated that other cities have their vendors clustered and asked if that was considered. Assistant City Attorney Woodland stated they did look at this but explained that vending from private lots is regulated differently than city property and there isn't one central location on city property.

City Manager Bohenko explained that some of the permanent businesses, such as sandwich shops, had expressed frustration with the fact that they had to pay overhead and taxes on their businesses, but vendors pay small fees. Councilor Smith stated he received comments from businesses that they often had to go out and clean up the areas after the vendors left and feels that they should all try to work together.

City Manager Bohenko concluded by stating that we have the ability to regulate these vendors and if they don't comply with the rules, their licenses can be revoked.

Motion passed.

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Donations to Portsmouth Fire Department for the Kearsarge restoration project
- Jack & Pamela Blalock - \$200.00
 - Dos Amigos Burritos, LLC - \$250.00
 - JJFC, Inc. dba Jumpin Jay's Fish Café - \$250.00
 - Northeast Auctions by Ronald Bourgeault, LLC - \$1,000.00
- (Anticipated action – move to approve and accept the donations to the Fire Department, as listed)***
- B. Acceptance of Donations for Art-Speak
- Nicholas & Lea Aeschilman - \$25.00
 - Brown & Company - \$50.00
 - Ellen Fineberg - \$150.00
 - Chris Greiner \$40.00
 - Jane James - \$100.00
 - Dana & Shaula Levenson - \$100.00

- Patricia Lynch & Kent Stephens - \$50.00
- Marple & James - \$200.00
- NH Charitable Foundation, Josephine Lamprey Fund - \$250.00
- Michael Warhurst - \$25.00

(Anticipated action – move to accept and approve the donations to Art-Speak for operations, as presented)

C. Acceptance of Donation for Art-Speak for Overnight Art

- Martin Hill Inn - \$200.00

(Anticipated action – move to accept and approve the donation to Art-Speak for Overnight Art, as presented)

D. Letters from Anna Moskov, Cystic Fibrosis Foundation, requesting permission to hold the Annual Seacoast Safari for CF on Saturday, July 17, 2010 and Sunday, July 18, 2010 and further request the use of Peirce Island as a rest stop for the event ***(Anticipated action – move to refer to the City Manager with power)***

E. Letter from Kelly Sicard, Breathe New Hampshire, requesting permission to hold the 25th annual Seacoast Bike Tour on Saturday, May 15, 2010 and Sunday, May 16, 2010 ***(Anticipated action – move to refer to the City Manager with power)***

F. Letter from Kathie Lynch, Portsmouth Little League, Inc., requesting approval for temporary signage to be located at the Plains and Hislop Park baseball fields during the 2010 baseball season and further permission to maintain signage to the rear of the Plains scoreboard ***(Anticipated action – move to refer to the City Manager with power)***

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

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

A. Letter from Attorney Robert Shaines regarding Parking Impact Fee for property located at 121 Congress Street

Councilor Smith moved to refer to the Planning Board for a report back, seconded by Councilor Dwyer.

Councilor Spear stated that the Council recently waived parking fees for Poco's and wondered why this couldn't be handled in the same way.

City Manager Bohenko explained that the Poco's issue was on city-owned property and this is not so it would require a change to the ordinance. He stated there was also the issue of parking "credits" with the Worth Lot, which will no longer happen, but we will have to address those as they come up.

Assistant Mayor Novelline Clayburgh stated that as a citizen, seeing a fee raised from \$20,000.00 to \$130,000.00 just doesn't seem right and understands that when an ordinance is passed there sometimes are things that need to be revisited and agrees this should be sent back to the Planning Board for review.

Councilor Dwyer stated she wants clarification of whether there has been discussion to allow paying these fees over time instead of one payment and to make this a part of the review.

Motion passed.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action

1. Elderly & Disabled Exemptions

City Manager Bohenko explained that this is an annual resolution and did not bring it forward for vote this evening so that the Council can give input. He further explained the proposed adjustments, which are in accordance with the CPI index of 1.8%. He stated that this comes before the Council annually at the direction of a previous Council so that the increases aren't as large as they would be every 3 or 4 years.

Assistant Mayor Novelline Clayburgh moved to authorize the City Manager to bring back for first reading at the February 1, 2010 City Council meeting the proposed resolutions as presented, seconded by Councilor Kennedy.

Coviello asked if assets includes the property valuation. City Manager Bohenko stated no, it is any money in the bank, etc.

Councilor Spear asked how our exemptions compare to other communities. City Manager Bohenko verified with City Assessor Maurice-Lentz that it is about 80%.

Motion passed.

2. Proposed Bonding Re: Citywide and School Facilities Improvements

a) **Resolution for bond authorization of up to \$1,800,000.00 for FY10 Citywide Improvements: (Pages 81, 112, and 115 of CIP FY10-15)**

Councilor Smith moved to authorize the City Manager to bring back for first reading a Bond Resolution for Citywide Improvements in the amount up to \$1,800,000 at the February 1, 2010 City Council meeting. Seconded by Councilor Dwyer.

Councilor Spear asked about the municipal boiler improvement and if we have looked at cogeneration. Steve Parkinson, Public Works Director, explained that they have been looking at all types of heating and energy solutions for this facility and maybe even eliminating the current boilers. He stated that the technology is advancing so much in this area, so we will explore everything.

Councilor Coviello asked about the \$1,000,000.00 for the Sagamore Creek Bridge Replacement and is that the whole amount or just the City's 20% figure. City Manager Bohenko stated it is the City's 20%. Councilor Coviello asked if this project has been approved by the State yet. Steve Parkinson stated yes it has been approved.

Councilor Dwyer asked about McDonough Street stating it is a 5 year project, but will we be able to start any work there soon. City Manager Bohenko stated the sidewalks will be worked on this year.

Motion passed.

b) **Resolution for bond authorization of up to \$500,000.00 for School Facilities Improvements: (Page 54 and 55 of CIP FY10-15)**

Councilor Smith moved to bring back for first reading a Bond Resolution for School Facilities Improvements in the amount of up to \$500,000 at the February 1, 2010 City Council meeting. Seconded by Councilor Lister and voted.

3. Lafayette Road Fire Station Easement and Agreement

Assistant Mayor Novelline Clayburgh moved to authorize the City Manager to negotiate and execute an easement and maintenance agreement with the New Hampshire Department of Transportation in substantial conformance with those provided, seconded by Councilor Coviello.

City Attorney Sullivan explained the purpose of the easement and that this is State property.

Councilor Spear asked about the sidewalks and if they are part of the easement as well. City Attorney Sullivan stated yes, we would have to move the sidewalks if required.

Motion passed.

4. Establish City Council Work Session for January 25, 2010 Re: Continuing Care Retirement Community Zoning Ordinance Amendment

Councilor Kennedy moved to establish a joint Work Session with the Planning Board on January 25, 2010 for the purpose of discussing the Continuing Care Retirement Community (CCRC) zoning provisions, seconded by Councilor Coviello.

Councilor Dwyer stated she would not be able to attend but feels this is an important work session to have. Mayor Ferrini asked that if she had any questions she wanted addressed, to submit them in writing prior to the meeting.

Mayor Ferrini reviewed the work session format and usual time frames for the benefit of the new Councilors.

Motion passed.

5. Establish City Council Work Session Re: Goal Setting

Councilor Kennedy moved to establish a City Council Work Session regarding goal setting on February 5, 2010 to be held at Levenson Room in the Public Library from 11:30 a.m. – 5:30 p.m., seconded by Councilor Smith.

Discussion ensued regarding back up dates if needed.

Motion passed.

6. Establish City Council Work Session for February 1, 2010 Re: Committee on Sustainable Practices Recommendations

Councilor Spear moved to establish a City Council Work Session on February 1, 2010 at 6:15 p.m. for the purpose of discussing the recommendations of the Committee on Sustainable Practices. Seconded by Councilor Coviello and voted.

7. Motor Vehicle Municipal Agent

Councilor Smith moved to appoint Kristin Regis, as the Motor Vehicle Municipal Agent, for the City of Portsmouth. Seconded by Assistant Mayor Novelline Clayburgh and voted.

Informational Items

1. Events Listing
2. News Release Re: Community Development Block Grant – funded Public Service Agency Grants
3. 2009 EDC Year In Review
4. Leak Detection/Rain Barrel (ARRA) Grant
5. Rockingham County 2010 Budget Schedule

B. MAYOR FERRINI

1. Ratify City Council Policies

Assistant Mayor Novelline Clayburgh moved to ratify City Council Policies 2009-01 through 2009-06 with no changes. Seconded by Councilor Dwyer and voted.

2. *Reports

C. COUNCILOR DWYER

1. *Charter Commission

Councilor Dwyer explained that the City Charter Section 1.8 – Future Charter Commission Questions, states that the City Council shall vote at its first meeting of each decade on the following question, “Shall a Charter Commission be created to review and make recommendations concerning the provisions of the Charter of the City of Portsmouth?”. She stated because this is the first meeting of a new decade, she is bringing the question forward.

Consensus of the Council was to add this as an item at the upcoming City Council Goal Setting session.

2. *Proposed City Council Policy Re: Action Plan and Goals for each City Council Committee

Councilor Dwyer has always been impressed with the Economic Development Commission 2009 Action Plan Year in Review report (CM Informational Item #3) and feels that if the Council is going to have Committees, then we owe it to them to allow them to identify their issues and goals for the upcoming year, but not necessarily with a verbal report. She said she hopes it will create less work and not more.

Mayor Ferrini suggested that this could also be added to the Goal Setting session.

Councilor Dwyer then referred the Council to an invitation to the Local Government Center on February 6, 2010 stating that it will be an informative session. City Manager Bohenko asked any Councilor wishing to attend to contact his office to make arrangements.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

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

Councilor Smith moved to adjourn at 8:30 p.m. Seconded by Assistant Mayor Novelline Clayburgh and voted.

Respectfully submitted:

Valerie A. French
Deputy City Clerk I