

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, MAY 17, 2010

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

At 6:15 p.m. an Anticipated "Non-Meeting" with Counsel was held regarding Negotiations – RSA-91-A:2, I (b c).

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

Mayor Ferrini called the meeting to order at 7:05 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 Spear led in the Pledge of Allegiance to the Flag.

PRESENTATION

1. Trustees of the Trust Funds

Members of the Trustees of the Trust Funds Lea Aeschliman, Phyllis Eldridge and Brad Lown provided a detailed presentation that reviewed the following areas:

- Responsibilities of the Trustees
- Trust Funds Organization and Valuation
- Discussion of Each of the Four (4) Trust Fund Groups
- Capital Improvement Plan (CIP) Projects Update

Ms. Aeschliman thanked the City Council for the opportunity to provide this report. She outlined the responsibilities of the Trustees as overseeing investment of the Funds, to ensure disbursements are made consistent with terms of trust document, and overseeing the management of Prescott Park. She reported on the 4 pooled investment funds – Prescott Park Funds, Scholarship Funds, Endowment Funds and Housing Funds which as of April 30, 2010 are valued at \$10,001,788.00. Ms. Aeschliman stated that the Prescott Park Fund totals \$3,637,510.00 with annual income for FY10 being \$114,262.00.

Ms. Eldridge reported that there are currently 36 Scholarship Funds with a valuation of \$4,167,652.00 and an annual income for FY10 at \$120,482.00.

Mr. Lown spoke to the Endowment Funds advising the Council that there are 35 funds with a value of \$1,001,265.00 and an annual income for FY10 of \$60,597.00. He reported that the oldest fund is the Toppan fund dating back to 1853 that provides for aid to poor and indigent elderly persons.

Mr. Torrey reported that he has worked with the Trustees of the Trust Fund for the last 30 years. He spoke regarding the Housing Funds and informed the Council that the Portsmouth Housing Endowment Fund is established to provide housing assistance to low income applicants. The total value of the fund presently is \$1,195,361.00 with an annual income for FY10 being \$32,773.00. He stated that this fund is a separate vehicle that dates back to the original sale of Mariner's Village.

Mr. Lown addressed the docking facility that is made up of 16-18 slips. He spoke to the offering of seasonal slips at a cost. He also addressed the current estimate to remove and replace the docks.

Ms. Aeschliman spoke to the replacement of the bathroom facilities and concession stand. She stated that the Trustees are working with PPAF on fundraising. She said they are currently working on a design for the bathrooms and concession stand and reported that the matter would come back to the City Council for approval.

Councilor Dwyer spoke regarding the combination of some of the smaller funds. She also addressed establishing an amount for what is an endowment fund. Ms. Aeschliman said all of the funds are accounted for and they have not combined any at this time. She did indicate that is something they could research. The City Council agreed this is a matter they would like to receive more information on.

Councilor Spear spoke to the large capital expenses needed and stated it is important to invest in Prescott Park. He also expressed concern regarding the diminishing buying power and asked if the budget is adequate to support the operations of Prescott Park. Ms. Aeschliman said long term the Trustees are concern with withdrawing from the principle but indicated that the financial advisors feel that interest rates will increase. She reported that \$125,000.00 of the budget is made up of salaries and there are not many areas to cut. She informed the Council that the Park recently installed efficiency lighting which has saved them \$3,000.00 in the last year in utility costs.

Councilor Spear stated that he would like to see the matter of the concession stand come before the City Council before a decision is made.

Councilor Kennedy indicated that she would like to hold a work session to review revenues and long term spending. She also suggested the creation of a mini master plan for Prescott Park.

Ms. Aeschliman said the Trustees would be pleased to meet with the City Council.

V. ACCEPTANCE OF MINUTES – MAY 3, 2010

Councilor Kennedy moved to approve and accept the minutes of the May 3, 2010 City Council meeting. Seconded by Councilor Smith and voted.

VI. PUBLIC COMMENT SESSION

Bob McElwain spoke opposed to the request by The Red Ginger for tables and chairs in front of their establishment. He said that the neighborhood was not informed of this request until this past weekend and there are concerns regarding the potential noise and traffic this would create. He requested that the City Council remove this item from the agenda for further review.

Marylou McElwain stated that she supports The Red Ginger but not their request for tables and chairs. She spoke to the congestion of the area and the former decision of the Board of Adjustment and Historic District to prohibit seating inside or outside of the establishment. Ms. McElwain said she would like to see some kind of compromise reached on this matter.

Martin Cameron said he feels that the majority of the City Council will not help lower the tax rate for the middle and lower income residents. He stated that people are struggling and need the assistance of the City Council to ensure that their taxes are not increased any further.

Natalie Hassold stated that she is an abutter to The Red Ginger and requested that the City Council table their application for tables and chairs. She indicated that the abutters received no notification regarding The Red Ginger's request and spoke to the concerns of the neighborhood. Ms. Hassold also spoke to the decision of the Board of Adjustment to not allow for seating inside or outside of the establishment due to parking issues.

VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donations to the Coalition Legal Fund
- Town of Hampton - \$1,500.00
 - Town of Marlow - \$200.00

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.

- B. Acceptance of Police Department Grant
- Crime Stoppers Organization for the Citizen Police Academy - \$5,000.00

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

C. Acceptance of Community Development Block Grant Funds

Councilor Smith moved to accept and expend a Community Development Block Grant (CDBG) in the amount of \$712,605.00 from the U.S. Department of Housing and Urban Development. Seconded by Councilor Kennedy and voted.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

A. First reading of Resolution Authorizing Borrowing in Anticipation of Revenues and Taxes in the amount of \$16,000,000.00

Councilor Smith moved to pass first reading and hold a Public Hearing and adoption of the Resolution at the June 7th City Council meeting. Seconded by Assistant Mayor Novelline Clayburgh and voted.

B. First reading of Ordinance amending Chapter 10, Article IV, Section 10.420 – District Location and Boundaries that the following lots be rezoned from Waterfront Business (WB) to Single Residence B (SRB): Assessors Map 201, Lots 3, 4, 5, 6, 7 and 8 (1-6 Sagamore Grove); and that the Zoning Map be revised accordingly as shown on the attached exhibit titled “Sagamore Grove Waterfront Business District – Proposed Zoning”

Councilor Smith moved to pass first reading and establish a Public Hearing and second reading for the proposed Ordinance and zoning map, as presented, at the June 7th City Council meeting. Seconded by Councilor Lister.

Councilor Kennedy said that she would not support the motion and expressed concern with doing away with commercial waterfront property.

Assistant Mayor Novelline Clayburgh stated that individuals will be able to express their views regarding this ordinance during the public hearing process.

Motion passed with Councilor Kennedy voting opposed.

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. 2010 Additional Omnibus Sidewalk Obstruction Renewals (See Attached Listing) ***(Anticipated Action – move to refer to the City Manager with power)***
- B. Acceptance of Donation to the Peirce Island Committee from Michael Callahan - \$50.00 ***(Anticipated Action – move to accept the donation to the Peirce Island Committee, as presented)***

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

Assistant Mayor Novelline Clayburgh moved to suspend the rules in order to take up Item X. G. - Sidewalk Obstruction License Application from Laminda (Mindy) Puckett, The Red Ginger, LLC, requesting permission to place 3 tables, 12 chairs and 1 A-frame sign in front of establishment located at 261 South Street. Seconded by Councilor Lister and voted.

- X.G. Sidewalk Obstruction License Application from Laminda (Mindy) Puckett, The Red Ginger, LLC, requesting permission to place 3 tables, 12 chairs and 1 A-frame sign in front of establishment located at 261 South Street

City Manager Bohenko stated given what has been heard this evening he would suggest tabling this matter for further review and report back to the City Council.

Councilor Kennedy moved to table the request until the June 7, 2010 City Council meeting. Seconded by Councilor Lister and voted.

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Richard "Brooksie" Brooks, Central Veterans Council, requesting that the WWI monuments on the corner of Peverly Hill Road and Route 33 be relocated to Langdon Park across from City Hall

Councilor Coviello moved to refer to the City Manager for report back. Seconded by Councilor Kennedy.

City Manager Bohenko advised the City Council that he would like to evaluate the cost associated with this request and report back to the City Council.

Councilor Dwyer said the location chosen should be selected with careful consideration for the future.

Motion passed.

Assistant Mayor Novelline Clayburgh moved to suspend the rules in order to take up Item XI. A.2. – Senior Citizen Transportation Agreement Re: Mark Wentworth Home. Seconded by Councilor Coviello and voted.

- XI. A.2. – Senior Citizen Transportation Agreement Re: Mark Wentworth Home

Assistant Mayor Novelline Clayburgh moved to approve a Transportation Agreement with the Mark Wentworth Home d/b/a Wentworth Connections, and authorize the City Manager to enter into an Agreement to grant the sum of \$65,000.00 for senior transportation in place of the Portsmouth Housing Authority in FY 2011. Seconded by Councilor Lister.

City Manager Bohenko reported on April 1, 1975, the City of Portsmouth transferred the Senior Citizens Center's function and personnel to the Portsmouth Housing Authority (PHA). In 1976, the PHA took over complete responsibility for the operation of the Senior Citizen Transportation Program. The City has funded the operation since that time. The current annual subsidy for senior transportation is \$65,000 and has been that amount since FY 2003.

He stated in 2008, the Department of Housing and Urban Development directed the PHA to divest itself of all social services, and senior transportation was considered a social service. Wentworth Connections assumed the operation of Portsmouth Housing Authority vehicles for senior transportation in 2009 to continue this valuable service to Portsmouth residents.

Since January 2009, Wentworth Connections has offered affordable transportation for people sixty years old and older and the disabled. They offer their services Monday through Friday from 7:00 a.m. to 4:00 p.m. for medical appointments, grocery or pharmacy shopping and volunteer positions in the City of Portsmouth. Dialysis patients are offered a 5:30 a.m. pickup option. Cost of the service is based on income and passengers purchase a 20 ride pass. Passengers call to schedule their appointments the day before, from 8:00 am to 12:00 pm. All City funded rides will take place within the City of Portsmouth. City Manager Bohenko informed the City Council that he would request that Wentworth Connections receive the \$65,000 subsidy for senior transportation instead of the Portsmouth Housing Authority in FY 2011.

Motion passed.

- B. Letter from D.J. Phillips requesting to renew the License Agreement for the dumpsters located on Church Street for the Clip Joint Barber Shop and NV Salon

Councilor Coviello moved to refer to the City Manager with power. Seconded by Councilor Lister and voted.

- C. Letter from Marie-Helene James, requesting to donate either a bench or a tree [or both] at the Dog Park or Peirce Island in memory of her son Eric James

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

Councilor Coviello stated that he was friends with Eric and if there is anything he can do to help, he would like City Manager Bohenko to let him know.

Motion passed.

- E. Letter from Kimberly Buxton, Bellman's Portsmouth, requesting permission to close Chestnut Street from Congress Street to Porter for the 2nd Annual Cars, Cigars and Celebrities Event on Thursday, July 22nd and Friday, July 23rd

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

- D. Letter from Matthew Leahy, Leahy Landscaping, Inc, requesting a license to install an irrigation system within the public right of way

City Manager Bohenko said that this matter should be referred to the Legal Department for review and report back to the City Council.

Councilor Smith moved to refer to the Legal Department for report back. Seconded by Councilor Kennedy and voted.

- F. Letter from Richard "Brooksie" Brooks, Central Veterans Council, inviting the City Council to attend the Albacore Memorial Service on Monday, May 31st at 10:00 a.m.

Councilor Smith moved to accept and place the letter on file. Seconded by Councilor Kennedy and voted.

Mayor Ferrini urged members of the City Council to attend the Memorial Service at the Albacore on Monday, May 31st at 10:00 a.m.

- H. Sidewalk Obstruction License Application from Denise & Evan Mallett, Black Trumpet Bistro, requesting permission to place 1 bench and 1 A-frame sign in front of establishment located at 29 Ceres Street

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

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Acceptance of Southeast Watershed Alliance (SWA) Proposed By-laws and Appointment of Alternate Representative

City Manager Bohenko requested that Water and Sewer Engineer Peter Rice address this matter.

City Engineer Rice reported that the SWA is established by the State Legislature. Its purpose is to enable and encourage municipalities in the coastal watershed to work together to more effectively address Clean Water Act requirements particularly relative to nutrient pollution, as well as to engage in better planning to address the threats to New Hampshire's coastal resources.

City Manager Bohenko advised the City Council that he would like to authorize Deputy Director of Public Works, David Allen, to serve as an alternate to SWA.

Councilor Kennedy moved to authorize the City's SWA representative to accept on behalf of the City the draft by-laws, and; move to authorize the Deputy Director of Public Works, David Allen, to serve as an alternate to SWA. Seconded by Assistant Mayor Novelline Clayburgh.

Councilor Dwyer asked if the committee has considered a proportion of voting due to varying populations of communities. City Engineer Rice stated that has been discussed but would be difficult as there is no cost to be part of this committee. Councilor Dwyer suggested placing this matter as part of the by-laws.

Assistant Mayor Novelline Clayburgh inquired if the committee could advocate with the DES and EPA on the nutrient issues. City Engineer Rice said that they could. He said that the committee will insure that decisions are based on science.

Councilor Coviello asked how many communities are involved in the committee. City Engineer Rice responded that there are 42 communities allowed to participate but there are only 27 currently that are part of the group.

Motion passed.

3. Acceptance of Brick Sidewalks Policy

City Manager Bohenko reported that the proposed brick sidewalks policy reflects the following proposed changes: 1) No brick sidewalks on Maplewood Avenue west of the bridge over the Mill Pond and 2) No brick sidewalks on Middle Street and Lafayette Road south of Aldrich Road (on this section, asphalt sidewalks including asphalt over concrete constitutes 53% of the material, 21% concrete, 14% brick and 12% no sidewalk. He informed the City Council that previously staff recommended sidewalks within the new Historic District areas should also be brick with the exception of Islington Street, as well as New Castle Avenue east of Marcy Street.

City Manager Bohenko stated over the course of the past six to eight years, sidewalks located within the Historic District have been constructed with brick when sidewalk improvements are carried out. He said as you know, with the recent passage of the revised Zoning Ordinance, the Historic District was expanded down Islington Street to Jewell Court/Bartlett Street; down Lafayette Road to South Street; and on Hanover Street between Bridge Street and Vaughan Mall.

He indicated that one issue that arises is when parcels within the Historic District front on a side street, the majority of which is not within the District (for example along Middle Street). In these cases, the approach has been to be consistent with the sidewalk material used along the majority of the side street. The second issue that arises has to do with sidewalks located outside the Historic District that have historically been brick. Past practice with regard to these sidewalks has been determined through a separate vote of the City Council. When upgrades are made to other sidewalks in the City, concrete is used with black asphalt being replaced with concrete.

Assistant Mayor Novelline Clayburgh moved to accept the Brick Sidewalks Policy, as amended. Seconded by Councilor Lister.

Councilor Coviello moved to amend the policy and limit brick sidewalks to the downtown overlay district. Seconded by Councilor Spear.

Councilor Coviello stated he has received feedback on this matter and if his motion does not pass, he would ask for a work session on this matter. He said that it costs 30% more for the installation of brick sidewalks and he feels it should be limited to the downtown.

On a voice vote Councilors Hejtmanek, Spear and Coviello voted in favor. Assistant Mayor Novelline Clayburgh, Lister, Dwyer, Kennedy, Smith and Mayor Ferrini voted opposed. Motion **failed** to pass.

City Manager Bohenko said if the policy is adopted, then from Aldrich south would be concrete. He said when it comes up on the paving cycle we would take out the brick and put in place asphalt.

Councilor Coviello said that the proposal would increase the amount of areas that would have brick sidewalks.

Main motion passed with Councilors Hejtmanek, Dwyer and Coviello voting opposed.

4. Request to Establish FY11 Budget Review Work Session

City Manager Bohenko said he would like to hold an additional FY11 Budget Work Session on Monday, May 24th at 6:30 p.m. in the Eileen Dondero Foley Council Chambers.

Assistant Mayor Novelline Clayburgh moved to establish an FY11 Budget Review Work Session for Monday, May 24, 2010 at 6:30 p.m., in the Eileen Dondero Foley Council Chambers. Seconded by Councilor Dwyer.

Councilor Dwyer said that the City Council has not discussed the proposal for the indoor pool and would like to make sure the City Council discusses this matter at the May 24th Work Session.

Mayor Ferrini said he would make the indoor pool an item on the Work Session agenda.

Motion passed.

B. MAYOR FERRINI

1. Appointments to be Considered:
 - Kathy Pearce – Reappointment to the Cable Television and Communication Commission
 - James Melfi – Reappointment to the Citywide Neighborhood Steering Committee
 - Sharon Morrison – Reappointment to the Citywide Neighborhood Steering Committee

The City Council considered the appointments as outlined above which will be voted on by the Council at the June 7, 2010 City Council meeting.

2. Appointments to be Voted:
 - Gary Nadeau – Appointment to the Building Code of Appeals until July 1, 2015
 - Sandra Dika – Reappointment to the Historic District Commission until June 1, 2013
 - Charles Bradley – Reappointment to the Portsmouth Housing Authority until April 1, 2015
 - Carlos Castro – Reappointment to the Portsmouth Housing Authority until April 1, 2015.

Councilor Kennedy moved to appoint Gary Nadeau to the Building Code of Appeal; the reappointment of Sandra Dika to the Historic District Commission, the reappointment of Charles Bradley and Carlos Castro to the Portsmouth Housing Authority as indicated above. Seconded by Councilor Lister and voted.

C. COUNCILOR COVIELLO

1. *Bomb Threat Assessment

Councilor Coviello stated that the Police and Fire Departments as well as City staff did an excellent job in their response to the bomb threat. He indicated that he would like to receive a report on how the situation happened and the costs of the incident.

City Manager Bohenko said he has spoken with Police Chief Ferland and there is still an on-going investigation in this matter. He suggested that the City Council hold a “Non-Meeting” with Counsel prior to the June 7th meeting to discuss this matter further and receive information from Police Chief Ferland.

Councilor Lister thanked City Manager Bohenko for communicating with the Council during the incident.

The City Council agreed to hold an Anticipated “Non-Meeting” with Counsel regarding this matter prior to the June 7, 2010 City Council meeting.

2. *Study of possible revenue generation

Councilor Coviello said he would like to see the Efficiencies Committee or the Fee Study Committee review possible ways to generate revenue.

City Manager Bohenko indicated that the proper place for this to be discussed would be by the Fee Study Committee. Councilor Coviello expressed concern with this only being a one person committee. City Manager Bohenko stated that the committee could be expanded. He recommended 3 City Councilors serve on the committee.

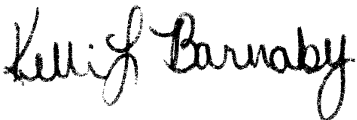
Mayor Ferrini announced that he would appoint 2 additional City Councilors to serve with Assistant Mayor Novelline Clayburgh on the Fee Study Committee to review possible revenue generation.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Kennedy asked when the Memorial Day parade and services would be held. Mayor Ferrini announced that the Memorial Day parade and services will take place on Monday, May 31, 2010 at 1:00 p.m. stepping off at the corner of Parrott Avenue and Junkins Avenue. Councilor Kennedy requested that the Memorial Day parade and services be added to the City Manager's Events Listing.

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

At 8:35 p.m., Assistant Mayor Novelline Clayburgh moved to adjourn. Seconded by Councilor Lister and voted.



Kelli L. Barnaby, CMC/CNHMC
City Clerk