

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: TUESDAY, FEBRUARY 22, 2011

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

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

Mayor Ferrini called the meeting to order at 7:02 p.m.

II. ROLL CALL

Present: Mayor Ferrini, Assistant Mayor Novelline Clayburgh, Councilors Lister, Dwyer, Coviello, and Smith

Absent: Councilor Hejtmanek, Spear and Kennedy

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

Councilor Coviello led the Pledge of Allegiance.

PRESENTATION

1. Proposed Lease of South Meeting House by the Portsmouth Public Media Group, Inc.

City Manager Bohenko stated Assistant City Attorney Suzanne Woodland and David Underhill, Vice President of Portsmouth Public Media, Inc. (PPM) will make a presentation regarding a proposed lease of the South Meeting House. He said following the presentation he would recommend the City Council move to bring the proposed Lease between the City of Portsmouth and Portsmouth Public Media, Inc. back for action at the March 7th City Council meeting.

David Underhill, Vice President of Portsmouth Public Media stated this lease was developed in coordination with the Committee of the Friends of the South End (FOSE). He said Portsmouth Public Media has expressed interest in leasing the South Meeting House on Marcy Street for use as its offices and production studio. He said City staff and the Friends of the South End Subcommittee has met with Portsmouth Public Media to discuss the organization's needs and developed a proposed 5-year lease.

Assistant City Attorney Woodland reviewed the key terms of the proposed lease stating that:

- a. Portsmouth Public Media, Inc. will perform all operational maintenance for the building including heating, plumbing, and air conditioning fixtures and equipment as well as paint, carpet, curtains, and furniture.
- b. Portsmouth Public Media, Inc. will provide upkeep and maintenance to the grounds consistent with that of the surrounding residential neighborhood and

- there will be public access to the outside sitting area at the front entrance of the building along Marcy Street for passive recreational purposes.
- c. Portsmouth Public Media, Inc. will ensure upkeep and maintenance to the unique historic clock tower, including weekly winding and all other work necessary to keep the bell ringing and the clock in working order.
 - d. Portsmouth Public Media, Inc. will make investments in capital improvements; in any given twelve-month period commencing with the first effective date of the lease. Portsmouth Public Media, Inc. shall expend no less on the performance of capital improvements to the property than would otherwise be due to the City in real estate taxes with respect to the property.
 - e. Make available to the organization known as the Friends of the South End or such other successor organization as the City designates a meeting room at least once a month for its meetings. The meeting shall be scheduled at least two weeks in advance at a mutually agreed upon time. The size and configuration of meeting room will be constructed in accordance with the needs of Portsmouth Public Media, Inc.
 - f. Ensure that the operation and use is consistent with the residential character of the neighborhood.
 - g. The parking areas on the north and west side of the building will remain open to the public and subject to usual municipal regulation.

Councilor Lister asked if there would be an opportunity for young people in the community to take part in some of the activities. David Underhill stated there would be huge opportunities for Portsmouth young people. He said the organization will have only 2 or 3 employees. He said it would be an all volunteer army and young people are the volunteers who make TV hum. Assistant Mayor Novelline Clayburgh asked if Portsmouth Public Media, Inc. has any fund raising plans. David Underhill stated they have a diverse number of revenue streams. He said they have plans for a capital campaign of TV infrastructure for equipment and to refit the building. He said they will have a membership drive and sponsorship models. He said they are busy with grant writing and there is a capital fund drive and event that will kick off in less than two months.

Councilor Coviello said this is great. He asked if it is normal to let an organization use a building with a lease and to have a second organization also be a part of that lease. City Manager Bohenko said yes, we have done it before with the Seacoast African American Cultural Center and other areas where we have had shared use of buildings.

Councilor Dwyer said this is a good idea, but one of the most challenging places to do a TV studio. She asked if there would be visible changes to the exterior of the building such as all the big windows which don't seem to be good for a TV studio. David Underhill stated there would be no changes to the exterior of the building. He said they may use what is called a natural density or translucent material on the windows to reduce the light.

Councilor Dwyer stated the use of only 5 parking spaces and being open only until 9:00 p.m. is very limiting to have volunteers working. She said she is concerned because she doesn't want parking spilling out into the neighborhoods. City Manager Bohenko said the 5 parking spaces will be for Portsmouth Public Media's use. He said the other spaces would be available to the public. Councilor Dwyer asked about the 9:00 p.m. curfew. Mr. Underhill said most of the time

9:00 p.m. will be fine. He said they may from time to time need to request an extension of this time for special things, but he said 9:00 p.m. is a comfortable compromise. He said they will not be doing a lot of live TV.

Councilor Smith thanked Portsmouth Public Media for this project. He asked if there would be neighborhood classes. Mr. Underhill stated they do want to offer classes. Councilor Smith asked if there would be any sound proofing. Mr. Underhill stated if there becomes a noise issue, they will work to abate it.

Mayor Ferrini stated he is pleased Portsmouth Public Media is taking steps to include the neighborhood.

City Manager Bohenko recommended the Council make a motion to bring this item back at the March 7th City Council meeting.

Councilor Smith moved to bring the proposed Lease between the City of Portsmouth and Portsmouth Public Media, Inc. back for action at its March 7th City Council meeting. Seconded by Councilor Coviello and voted.

V. ACCEPTANCE OF MINUTES – FEBRUARY 7, 2011

Councilor Smith moved to accept the minutes of the February 7, 2011 City Council meeting. Seconded by Councilor Lister and voted.

Mayor Ferrini requested a moment of silence for Carlos Castro who recently passed away. He stated Mr. Castro served for many years with the Portsmouth Housing Authority.

VI. PUBLIC COMMENT SESSION

Dr. Thomas Clairmont – spoke regarding the National Health Care Act stating insurance premiums for the City have rose an average of over 10% every year since 2000. He stated his group – Physicians for a National Health Program and Healthcare-Now! has pushed for a single payer system. He said this system would provide insurance coverage to everyone, provide each person a common benefit package, and have uniform procedures and rates for all providers. He said he estimates savings of \$400 billion dollars every year by reducing administrative waste.

VII. PUBLIC HEARINGS

- A. RESOLUTION INCREASING THE MAXIMUM INCOME LIMIT FOR INDIVIDUALS QUALIFYING FOR THE ELDERLY REAL ESTATE TAX EXEMPTION TO \$33,514.00 FOR SINGLE AND \$41,343.00 FOR MARRIED AND TOTAL ASSETS MAY NOT EXCEED \$111,718.00 WHETHER SINGLE OR MARRIED

Mayor Ferrini declared the public hearing open and called for speakers. There were no speakers.

Mayor Ferrini declared the Public Hearing closed.

- B. RESOLUTION INCREASING THE MAXIMUM INCOME LIMIT FOR INDIVIDUALS QUALIFYING FOR THE DISABLED REAL ESTATE TAX EXEMPTION TO \$33,514.00 FOR SINGLE AND \$41,343.00 FOR MARRIED AND TOTAL ASSETS MAY NOT EXCEED \$111,718.00 WHETHER SINGLE OR MARRIED

Mayor Ferrini declared the public hearing open and called for speakers. There were no speakers.

Mayor Ferrini declared the Public Hearing closed.

- C. ORDINANCE AMENDING THE CITY ZONING ORDINANCE, CHAPTER 10, ARTICLE 7, SECTION 10.730 – GATEWAY DEVELOPMENT, SUBSECTION 10.735 – SUSTAINABILITY STANDARDS

Mayor Ferrini declared the public hearing open and called for speakers. There were no speakers.

Mayor Ferrini declared the Public Hearing closed.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. African Burying Ground Project Donation - \$750.00

Councilor Smith moved to accept and expend a total of \$750.00 in donated funds from the Seacord Family for fundraising costs associated with the African Burying Ground Memorial Park project. Seconded by Councilor Lister and voted.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Adoption of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Elderly Real Estate Tax Exemption to \$33,514.00 for single and \$41,343.00 for married and total assets may not exceed \$111,718.00 whether single or married.

Assistant Mayor Novelline Clayburgh moved to adopt the Resolution for Elderly Exemptions, as submitted. Seconded by Councilor Smith and voted.

- B. Adoption of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Disabled Real Estate Tax Exemption to \$33,514.00 for Single and \$41,343.00 for Married and Total Assets may not exceed \$111,718.00 whether single or married.

Councilor Smith moved to adopt the Resolution for Disabled Exemptions, as submitted. Seconded by Councilor Coviello and voted.

- C. Ordinance Amending the City Zoning Ordinance, Chapter 10, Article 7, Section 10.730 – Gateway Development, Subsection 10.735 – Sustainability Standards.

Councilor Smith moved to accept the recommendation of the Planning Board and pass second reading and schedule a third and final reading of the proposed Zoning Ordinance, as presented, at the March 7, 2011 City Council meeting. Seconded by Assistant Mayor Novelline Clayburgh and voted.

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Donations for USS Virginia
- Carol and Harry McClard - \$40.00
 - Robert J. and Cynthia A. Lister - \$50.00
 - Neal L. Ouellett or Darlene Furbush Ouellett - \$50.00
 - William F. Clifford, Jr. - \$50.00
 - Portsmouth Little League - \$100.00
 - The American Legion, Frank E. Booma Post No. 6
Antoinette Galvin - \$150.00
Mark and Susan Reiner - \$200.00
Gino Baroni / Trident Advantage - \$275.00
 - The American Legion, Frank E. Booma Post No. 6
Portsmouth Rotary - \$500.00
- (Anticipated action – move to approve and accept the donations for the USS Virginia, as presented)***
- B. Letter from Heidi Roy, National Multiple Sclerosis, requesting permission to hold the 2011 Bike MS Seacoast Escape on Saturday, August 13, 2011 ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Todd Hanson, New Heights and Paddy's American Grille, requesting permission to hold the second annual St. Paddy's 5 Miler on Sunday, March 13, 2011 at the Pease Tradeport ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from M. Kate Knight, Sexual Assault Support Services, requesting permission to hold a Candlelight Vigil on Thursday, April 7, 2011 from 7:00 p.m. – 8:30 p.m. in the Vaughan Mall ***(Anticipated action – move to refer to the City Manager with power)***

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

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from The Retail Committee of the Greater Portsmouth Chamber of Commerce requesting that the City Council and Planning Board review the Projecting Sign application process for streamlining

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

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Report Back Re: Draft Pilot – Use of City Property for Outdoor Seating with Alcohol Service

City Manager Bohenko stated Pesce Italian Kitchen and Bar has requested permission to utilize approximately 500 square feet of the Vaughan Mall pedestrian way (City-owned land) for expansion of their existing outdoor dining patio for a trial period to commence on April 15, 2011 and end on October 15, 2011 and to include outdoor alcohol service. He stated the City staff committee reviewed the request and recommended the City Council approve a one-year Area Service Agreement, on a pilot basis. He said the agreement would include the following:

Term of Agreement:

April 15, 2011 thru October 10, 2011. At the City's discretion, use of the City-owned area may be precluded, modified or require additional staffing during high attendance special events such as the Criterium, Children's Day, Market Square Day, etc.

Area Service Fee:

\$10,000; payment due and payable prior to authorization to use the area. Note: mobile vendor fee for use of a parking space is \$5,000.00.

Hours of Operation:

Closure by 10:30 p.m. (last call 10:00 p.m.) except on Sundays, closure by 10:00 p.m. (last call 9:30 p.m.).

Liquor Service

No one to be seated for the sole purpose of drinking alcohol; that is, menu service must be provided.

No alcohol service to any patron unless they are seated.

All alcoholic beverages to be served to patrons seated in the outdoor café by waiter/waitress.

Suspension of Area Use:

The City shall have the authority to immediately suspend the use of the area for service for just cause for up to fourteen (14) days; the City Council shall have the authority to revoke the use of the area.

Alcoholic beverage violations shall be reported to the State Liquor Commission.

Operational Considerations:

Approval of the Area Service Agreement by the State Liquor Commission is required.

Health Department to approve outdoor food service operations and cleaning operations, with the area to be left in clean condition at closing time. Garbage shall be contained at all times. No food prep or grilling shall be allowed in the service area.

Health Department to review/approve that kitchen facilities are sufficient to support additional seating.

Inspection Department to review/approve that bathroom facilities are sufficient to support additional seating.

A Place of Assembly inspection and updated Place of Assembly permit will be required.

No outside audio or visual; that is, no TVs and no music of any type, including speaker systems.

Layout and Design:

Layout of City-owned service area is subject to City approval.

No damage to sidewalk, curbing or other City amenities such as trees, shrubs, light poles, trash containers, utilities and the like.

Lighting plan shall be provided and is subject to City approval, with electrical permit as appropriate.

The Fire Department shall review and approve means of egress.

No structures shall be permanent; all barriers, tables and chairs must be movable/non-permanent. Canopies shall not be allowed; table umbrellas without logos are allowed, but must not extend beyond the service area.

Outdoor café seating area must be separated from the pedestrian space with an enclosure system; a minimum 5-foot pedestrian travel way shall be maintained in all abutting areas; service area and abutting City sidewalks must be ADA compliant.

Enclosure System:

Minimum height of enclosure shall be 30 inches; maximum height of enclosure shall be 36 inches.

Enclosure material shall be heavy-duty decorative black metal fencing or faux wrought iron fencing or similar as approved by City.

Additional Terms

Area Service Agreement shall not be assignable to other parties.

Insurance shall be approved by City Legal Department: \$1,000,000.00 per occurrence, \$3,000,000.00 aggregate; City named as additional insured.

The use of the City-owned service area shall not result in any cost to the City of Portsmouth.

At season's end, enclosure system, tables, chairs and all other materials in their entirety shall be removed from the City-owned service area.

City Manager Bohenko said if the 2011 pilot is successful, the City may wish to consider allowing for a small number of additional downtown locations for similar venues where the service of alcohol is allowed in seating area appurtenant and contiguous to the main restaurant facility.

Councilor Smith moved to bring back for a formal vote the draft pilot for use of city property for outdoor seating with alcohol service at the March 7th City Council meeting. Seconded by Assistant Mayor Novelline Clayburgh.

Councilor Dwyer said she feels it is contradictory to say we may want to modify the area and yet we want to require a fairly permanent enclosure system. City Manager Bohenko said the enclosure system is required by the Liquor Commission. He said when we say permanent we think of a permanent structure such as a wall. He stated what we want is to have a defined area that the alcohol will stay within.

Councilor Dwyer said since this is not a residential area 10 o'clock seems early. City Manager Bohenko stated he wanted to start with more controls and then loosen them after the pilot program is complete. He said we need to have one pilot to see what goes wrong and what goes right and address it in a comprehensive policy for others who would come forward for the 2012 season.

Mayor Ferrini passed the Gavel to Assistant Mayor Novelline Clayburgh.

Mayor Ferrini said this is not something that has not been done in other cities. He feels this is unduly constrictive in the first instance. He feels the hours should be a little later. He said it feels more of a baby step than he would be interested in. He said he would support a bit more of an expansive pilot study. City Manager Bohenko stated he feels we should hold tight control and in the summer after the Pilot program has been in effect for awhile, we can bring it back to the Council and loosen up on some of the constraints. He said we need to define the size of the space we are going to allow these things to take place. He said not all the restaurants in the City are going to have the space available to serve alcohol outside.

Mayor Ferrini said this makes since. He asked if there are means to engage in these enclosures readily available and reasonable in cost. City Manager Bohenko said he felt trying a Pilot for one summer is appropriate for something that could have huge ramifications. He said we need to be able to regulate this in a responsible manner. He stated his staff has felt that we need to outline minimum requirements. He said we want to try the Pilot on a restaurant that we believe has a little more space that we can work with.

Councilor Coviello said these barriers seem to be City restrictions not State restrictions. City Manager Bohenko said they are State restrictions. He said we are not worried about the alcohol aspect as much as encroachments of the public walkway. He said we want to see how the encroachment is going to affect the public way.

Councilor Smith asked if the enclosures would have to be approved through the Historic District Commission. City Manager Bohenko stated that is something we will need to talk about, but he did not believe they would. He said they are not a permanent structure.

Mayor Ferrini said he has been contacted by constituents about expanding this service as well. He said if we are only piloting one type of property we have to do so in a way that doesn't preclude going forward in the next year if we have an interest. He further said this idea at the Vaughan Mall makes a lot of since. He said it creates a development opportunity for the Vaughan Mall. City Manager Bohenko said we have actively looked at what areas may be appropriate.

Motion passed.

Assistant Mayor Novelline Clayburgh returned the gavel to Mayor Ferrini.

2. Request to Establish Public Hearing Re: Proposed Supplemental Appropriation for Construction of the Youth Recreation Facility

City Manager Bohenko stated on Wednesday, February 9, 2011, the City Council met in a Work Session with the Middle School Joint Building Committee, Recreation Board, and City staff to discuss the proposed youth recreation facility that would be built in conjunction with the Middle School project to replace the Connie Bean Center. He stated the Joint Building Committee indicated certain decisions relative to this proposal needed to be made prior to April 2011. He said the major component is how the City would fund the construction of the facility. He stated as part of the work session, he presented two funding recommendations. He stated if the City Council wishes to proceed with the construction of the youth recreation facility, he would recommend that Option B be used to fund the construction of the facility. He outlined

Option B stating that \$512,700.58 would come from the bond premium from the sale last May of general obligation bonds. He said the remaining \$1,800,000.00 would be appropriated from undesignated fund balance. He stated to adopt the use of these funds would require a public hearing and two thirds vote of the City Council.

Assistant Mayor Novelline Clayburgh moved to establish a public hearing for Monday March 7th regarding a supplemental appropriation of \$2,312,700.58 for FY11 in accordance with the attached resolutions. Seconded by Councilor Lister.

Councilor Coviello stated he will support this motion, but he is concerned with State funding for the Middle School and he will have trouble moving forward without a discussion about bringing in future revenues. Councilor Lister asked if Councilor Coviello had any ideas for new revenue. Councilor Coviello said he feels we should take a look at the parking rates. City Manager Bohenko stated there will be recommendations relative to a change in parking rates as part of the Omnibus we have been talking about. Mayor Ferrini said it is his intention that a parking rate raise will also come forward and be placed on the agenda.

Motion passed.

3. Request to Renew Lease of 251 Bartlett Street by the Creek Athletic Club

City Attorney Sullivan stated as a result of the February 7th City Council meeting he is bringing back for a formal vote the request from the Creek Athletic Club to renew the lease of 251 Bartlett Street. He stated they are proposing to expend at least as much in capital improvements as they would have paid to the City as property taxes, which is the payment provision in the current lease. He said the only addition to the proposed Lease is a footnote to page 1, which changes nothing in the lease, but may be of some assistance to future understanding of the compensation provision. He stated the current Agreement is scheduled to expire on March 31, 2011. He further stated the request is for a ten-year extension effective April 1, 2011 through March 31, 2021.

City Manager Bohenko passed out an aerial map of the area in question. He said in the paper there was an article that talked about over an acre of land going with the building. He said that is not correct. He said the aerial shows the building with the park included. He said the park would not be eliminated. Mayor Ferrini said it is approximately .2 of an acre that we are talking about. City Manager Bohenko said this is correct.

Councilor Smith moved to extend the Lease Agreement with the Creek Athletic Club for 251 Bartlett Street for a period of ten years from April 1, 2011 through March 31, 2021, as presented. Seconded by Assistant Mayor Novelline Clayburgh.

Councilor Dwyer said she would like to see consistency in our lease arrangement for our buildings. She said we just discussed one which would be a 5 year lease with an option to renew for 5 years. She said for consistency would it make since to make this one the same.

Councilor Coviello stated again with consistency he would like to see it in the lease that they would also open up to neighboring committees to hold meetings and such. City Manager Bohenko stated they do house Eureka and they do open that up and we do ask that they

participate in public events. He said he feels the building is not large enough to accommodate any other use or meetings.

Assistant Mayor Novelline Clayburgh said she is in favor of the 10 year lease. She stated Creek Athletic Club is raising money to cover the costs of capital improvements and they should be allowed the 10 years to get this done. She further stated if they were not there, the City would have to maintain this building. She said they have been in this building a long time and she feels the lease should be approved as is.

Councilor Lister stated he agrees with Assistant Mayor Novelline Clayburgh. He said the time line on some of the Capital Improvements warrant the 10 year lease.

Councilor Coviello stated he would like to see it open up to neighborhood use. City Manager Bohenko said he would ask them to see how it could work. He said that building is not appropriate for public gatherings.

Councilor Coviello moved to table the motion and bring back at the next meeting when Creek Athletic Club members were available for discussion. No second was received.

Motion passed 5-1. Councilor Coviello voted opposed.

4. Report Back Re: Letter from Portsmouth Housing Authority Regarding Wamesit Place

David Moore, Community Development Director stated on February 7, 2011, the City Council voted to refer the Letter from the Portsmouth Housing Authority regarding Wamesit Place to the Community Development Block Grant (CDBG) Citizens Advisory Committee for a report back. He said the CDBG Citizens Advisory Committee met on February 10, 2011 to review this matter.

David Moore stated in 1989, the City loaned \$300,000.00 in CDBG funds from the U.S. Department of Housing and Urban Development to the PHA to assist the agency in purchasing Ridgewood Apartments (now Wamesit Place). At this time, the PHA is working to secure financing for a major rehabilitation of the Wamesit Place apartments. He said a limited partnership entity would be created to facilitate the use of tax credits and PHA will be the lead partner. He said this would be similar to the financing done for the Cottage Senior Housing and Lafayette School Senior Apartments projects. He stated this would effectively be a change in ownership since the 1989 City-PHA Agreement requires repayment of the loan to the CDBG Fund if the PHA's interest in the property is transferred in any fashion to any other entity.

David Moore stated in the January 27th letter to the City Council, the PHA requested the \$300,000.00 loan be assigned and assumed by the new entity that will own Wamesit Place and that the funds not be repaid at the loan closing and that they be allowed to use these funds to finance the improvements. He said the Citizens Advisory Committee heard from Joe Couture, Executive Director of the PHA and Bill Shanahan of the Northern New England Housing Investment Fund, the PHA's consultant on this development project and then discussed the request. He stated the Committee voted unanimously to recommend the City

Council authorize the City Manager to take all necessary steps to transfer the existing \$300,000.00 loan to the new entity as proposed by the Housing Authority with an additional consideration. He said in exchange for agreeing to transfer the obligation, the Committee recommended the City enter into a new agreement that would require that the original \$300,000.00 loaned to the PHA in 1989 accrue interest of 2% per annum from the date of the new agreement and be payable upon 30 years. He said the triggering of repayment prior to the 30 year term would be similar to the 1989 agreement, which requires repayment if the property is not maintained solely for rental to people who earn low or moderate incomes or the property is transferred to another entity. He said in either of those two circumstances, the repayment of the greater of \$300,000.00 plus the accrued interest, or 6% of the market value (determined by reference to assessment records), would become due. He said all relevant regulatory requirements, which are part of the CDBG program and referred to in the original Agreement will be incorporated as applicable to the new financing.

David Moore said there are two key considerations factored into this recommendation from the Committee. He said first, the 100 unit housing development is greatly in need of significant interior and exterior upgrades proposed by the Housing Authority. Second, the new financing associated with the renovation will ensure the affordability of these units for a period of 30 years. He said both of these considerations are in keeping with the goal of retaining quality affordable housing in the City.

Councilor Smith moved to accept the report back from the CDBG Citizens Advisory Committee and authorize the City Manager to take all actions necessary to implement the recommendation. Seconded by Councilor Lister.

Councilor Dwyer stated this is a good plan. She said she is in favor of this. She asked if any improvements have already started and is the new corporation already established that will be managing this. Joe Couture said the staff at NH Finance has moved it forward to their board meeting on February 24, 2011 and they anticipate it will be approved. He said they have a closing scheduled on March 28, 2011 and the improvements we hope will commence at that time. Councilor Dwyer asked if NH Finance is approving the new corporation's viability. Joe Couture stated yes and they will also approve the tax credits that will go with it. He said the new entity will be made up of the Portsmouth Housing Development Ltd; the Housing Authority will be the managing general partner giving the Portsmouth Housing Authority a two-thirds partnership. He said they are out to bid for an equity partner.

Mayor Ferrini asked if the Council will see the agreement with the entity prior to it being signed. Joe Couture stated they would. Mayor Ferrini further asked if they will see an understanding of the financial information that is going to tell that the entity is going to do what you need them to do and the Council will have an opportunity to assess that. Joe Couture stated they would. He said the agreement will be completed by City Attorney Robert Sullivan. City Attorney Sullivan said in the past, the relationship between the Portsmouth Housing Authority and the City were so informal that sometimes agreements that were made were not documented the way they would have been if they were in a private business setting. He said if the Council agrees to proceed with this transaction it has been discussed that the City would show due diligence and the document would be similar to that which you would see in a private commercial transaction.

Assistant Mayor Novelline Clayburgh asked if the \$543,000.00 that comes back to us from the 2% interest will go to the City or Portsmouth Housing Authority. City Attorney Sullivan stated it would go to the City.

Assistant Mayor Novelline Clayburgh said she thinks this is wonderful arrangement. She said this will ensure we will have homes for the low to moderate income residents in the Community.

Mayor Ferrini asked what the Council is going to see in the nature of oversight. City Manager Bohenko stated we are voting on the loan itself. He said we will have a loan agreement with an outline of the agreement. Mayor Ferrini asked if the Council will see the loan prior to it being signed. City Manager Bohenko stated we are basically allowing the loan to be continued and adding a 2% interest.

Motion passed.

5. Non-resident members at Spinnaker Point Recreation Center

City Manager Bohenko stated he received a memorandum from Rus Wilson, Recreation Director, dated February 11, 2011, regarding the Spinnaker Point Condo Association Board of Directors' approval to allow all non-Portsmouth residents, within agreement parameters, to become members of the Spinnaker Point Recreation Center. He said the City Council would have to amend the Field House Management Agreement to reflect this change. He said all other Agreement provisions will remain the same including the fee for non-residents and membership limitations. He further stated the intent of allowing non-resident membership is to try to achieve 100% self-sustaining operation for Spinnaker Point. He said we are now at 70% with 1,400 members.

Councilor Smith moved to authorize the City Manager to enter into an amended Agreement with Spinnaker Point Condominium Association to allow non-Portsmouth residents to become members of Spinnaker Point. Seconded by Assistant Mayor Novelline Clayburgh.

Councilor Dwyer asked if there would be a different fee structure that would allow people to pay on a quarterly basis. City Manager Bohenko said we are looking at this. He said we are looking at a monthly fee for people without discounts and quarterly for people with discounts such as senior discounts, etc. He said they have to be competitive with other health clubs out there.

Councilor Lister asked if they had a projected number of people this would initially include. City Manager Bohenko stated the agreement allows us to go in 100 increments. Councilor Lister asked if there are 100 people out there waiting on us to vote on this. City Manager Bohenko said we will see. He said we have had people ask about this. He stated Spinnaker Point has a lot of amenities that others don't have.

Motion passed.

6. Teacher's Early Retirement Incentive

City Manager Bohenko stated the School Board has requested that the City Council consider approving the teacher's early retirement incentive. He said to be eligible, members will need to have completed twenty-five or more years of service in the District by the end of the 2010-2011 school year; file an irrevocable written commitment to retire from the District and actually retire under the New Hampshire Retirement System.

City Manager Bohenko said eligible members would receive the following subsidy paid from the health stabilization account from the district for health insurance until June 30, 2014:

- a. 50% of the single plan
- b. 50% of the two-person plan
- c. 50% of the two-person plan towards the family plan

He said as of this date, only one teacher has accepted this package subject to City Council approval. He further stated the anticipated savings to the school district is \$11,000.00 in FY12.

Councilor Dwyer moved to approve the request from the Portsmouth School Board to offer a retirement incentive to teachers with twenty-five (25) or more years of creditable service in the School Department. Seconded by Councilor Lister.

Councilor Coviello stated he was opposed to this. He said if this teacher is in a position that needs to be replaced then it is not being eliminated and will just be moving costs down the road. He said he also has a problem taking money out of the Health Stabilization Fund. He said this is not what that money was set up for.

Councilor Dwyer said she thinks this is a good idea that the School Board and the Superintendent had, but she would encourage them to consider not making the limitation to creditable service only within Portsmouth, but creditable service within the New Hampshire Retirement System. She said this could add additional people to the list. Councilor Lister said we asked Department Heads to be creative and the School Department has worked hard to come up with this plan.

Motion passed 5-1. Councilor Coviello voted opposed.

B. MAYOR FERRINI

1. Letter from Brian Wazlaw regarding not seeking reappointment to Conservation Commission

Councilor Smith moved to accept and place letter on file with a letter of thanks for his service. Seconded by Councilor Lister and voted.

C. ASSISTANT MAYOR NOVELLINE CLAYBURGH

1. Charter Amendments

Assistant Mayor Novelline Clayburgh stated they had their first meeting on February 8, 2011 and their next meeting will be a Public Hearing on March 10, 2011 at 7:00 p.m.

Assistant Mayor Novelline Clayburgh said the committee is open to any and all suggestions or recommendations to Charter Amendments. She stated they will review every suggestion and either forward it on to the City Council or eliminate it. She stated the last scheduled meeting is scheduled to be May 19, 2011 as any proposed amendments to the Charter will need to be placed as a referendum question on the ballot in the fall.

She said any suggestions can be forwarded to anyone on the board. She said the board consists of herself as chair, Councilor Coviello; Joshua Cyr; John O'Leary' Peter Loughlin: City Attorney Robert Sullivan and City Clerk Kelli Barnaby.

D. COUNCILOR COVIELLO

1. Bridge Street Parking Lot use post Worth Lot Parking Garage Construction

Councilor Coviello stated he would like to ask the Council to explore the impact of a conversion of the Bridge Street parking lot into a park in conjunction with the proposed construction of the Worth Lot Parking garage. He said he would ask that this idea be forwarded to the Economic Development Commission and the Parking Committee for their input. He stated that inclusive to this request he would request that we ground lease a small portion of the land fronting Islington Street.

Councilor Dwyer stated there is a lot of interest in making this area more attractive with either a park or a multi purpose area. Councilor Lister stated this piece of property has been talked about many times with many ideas for years. Assistant Mayor Novelline Clayburgh said she thinks it's a good idea, but we should wait until we vote on the Worth Parking lot.

Councilor Smith said if the Worth Parking lot does get done we would be adding 360 spaces and then to take out almost 100 spaces by turning this into a park seems counter productive. He further stated we will have a loss of revenue to the City for those spaces, which would delay paying off the new bond.

Mayor Ferrini said he feels there is an interest by the Council and will therefore; ask for a report back as suggested. City Manager Bohenko said he will supply the Economic Development Commission and Parking Committee with a copy of Councilor Coviello's memo and have them report back. He further stated he would also send a copy to the Planning Board to see how it would fit into the Master Plan.

E. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the February 10, 2011 meeting

Councilor Smith said there is nothing that requires an ordinance change.

Councilor Smith moved to approve and accept the action sheet and minutes of the February 10, 2011 Traffic & Safety Committee meeting. Seconded by Assistant Mayor Novelline Clayburgh.

Councilor Dwyer asked what is really planned for the Service Credit Union road and how is this going to work. Councilor Smith stated their intent was that you will not be able to take a left hand turn at the intersection of Lafayette and Lang Roads. He said all traffic will have to flow to the set of lights in front of Ocean Road. He said there was a lot of discussion on this and this has been tabled waiting to hear a report back from TAC. He also said there is a second entrance which would be gated on Lang Road to allow for delivery vehicles, but they had a lot of concerns with this so that was also tabled.

Motion passed. Councilor Coviello abstained.

2. Parking Committee Action Sheet and Minutes of the February 10, 2011 meeting

Councilor Smith moved to approve and accept the action sheet and minutes of the February 10, 2011 Parking Committee meeting. Seconded by Assistant Mayor Novelline Clayburgh.

Councilor Smith stated there is an Ordinance change regarding the Snow Ban Coupons. He stated presently the snow ban coupons can be used during a snow ban, 2 hours prior to the declaration of the snow ban to 2 hours after for parking at the HHPF for a \$3.00 flat rate. He said the change would expand the time frame allowed to park from the declaration of an advanced warning until a time deemed appropriate by garage personnel following termination of the snow ban, but at least two hours after the termination of the snow ban, allowing residents flex time should the ban terminate in the middle of the night etc.

Councilor Smith said Councilor Coviello brought up the matter of fees. He said the Committee did have a discussion on fees, but this item was tabled for a report back. He said they have no specific recommendation at this time. City Manager Bohenko stated from a staff prospective they want to come up with something that they can include in the report back to the City Council in March. He said they do have some proposals that would adjust fees. He said there has been no formal action by the Parking Committee. Mayor Ferrini asked when fees will be taken up. Councilor Smith said they hope to have something back to the Council on March 21st. City Manager Bohenko stated they will be before the Council on the 21st of March.

Motion passed. Councilor Coviello abstained.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Smith moved to send the information provided by Dr. Clairmont during the Public Comment Session to our State Legislative Delegation. Seconded by Assistant Mayor Novelline Clayburgh.

Assistant Mayor Novelline Clayburgh stated Dr. Clairmont presented a creative solution to a rising problem with healthcare. She said she agrees with Councilor Smith's recommendation to send this information to our Legislative Delegation.

Motion passed.

Councilor Dwyer said at the retreat she made the recommendation that we elevate making a new Committee which would incorporate the issues of Traffic & Safety, Parking and also Transportation in our City. She said the issue of valet parking is a good example of the reason to do this as it cuts across all of these things. Councilor Smith said if the Enterprise Fund is the way we are going, this type of Board will be essential. Mayor Ferrini asked the Council if there was interest in bringing back the issue of this one committee together with the Omnibus Ordinance changes. Councilor Smith stated he felt there is too much going on with the Omnibus to do that now.

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

Councilor Smith moved to adjourn at 8:55 p.m. Seconded by Councilor Coviello and voted.

Respectfully submitted:

Dianne M. Kirby
Deputy City Clerk I