CITY COUNCIL MEETING

MUNICIPAL COMPLEX PORTSMOUTH, NH DATE: MONDAY, OCTOBER 1, 2012 TIME: 7:00 PM [or thereafter]

At 6:00 p.m., an Anticipated "Non-Meeting" with Counsel was held regarding Negotiations and Personnel Matter – RSA: 91-A:2, I (b-c), and Litigation – RSA: 91-A:2, I (c).

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

Mayor Spear called the meeting to order at 7:00 p.m.

II. ROLL CALL

<u>Present</u>: Mayor Spear, Assistant Mayor Lister, Councilors Coviello, Kennedy, Novelline Clayburgh (via Conference call), Lown, Dwyer, Smith and Thorsen

III. INVOCATION

Mayor Spear asked everyone to join in a moment of Silent Prayer.

IV. PLEDGE OF ALLEGIANCE

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

PRESENTATION

1. Presentation to Retiring Welfare Director, Keith Bates

City Manager Bohenko presented Retiring Welfare Director Keith Bates with a City of Portsmouth Chair in recognition of his years of service to the City. Keith accepted the Chair with thanks and appreciation.

V. ACCEPTANCE OF MINUTES – AUGUST 20, 2012

Councilor Coviello moved to approve and accept the minutes of the August 20, 2012 City Council meeting. Seconded by Assistant Mayor Lister. On a unanimous roll call vote 9-0, motion passed.

VI. PUBLIC COMMENT SESSION

<u>Shaun Rafferty</u> said that residents would like another means to express their voices on items. He said there is no manner with the public comment session to receive responses and have a dialogue.

<u>Barbara DeStefano</u> said she supports the comments of Mr. Rafferty and addressed the issue of a second parking garage. She recommended that the City Council move forward with a new parking garage and stated support for the Worth Lot site.

<u>Bob Swan</u> said he does not support raising parking rates at this time. He stated that the City of Portsmouth needs to be a better ambassador to visitors and further added that residents no longer want to visit the downtown due to the meters.

City Manager Bohenko stated that councilors may be contacted individually via e-mail. He said the councilors have individual e-mail addresses but we could set up a group e-mail.

VII. PUBLIC HEARINGS

A. RESOLUTION AUTHORIZING A BOND ISSUE OF UP TO TWO MILLION TWO HUNDRED SIXTY SEVEN THOUSAND DOLLARS (\$2,267,000.00) FOR FY13 CITYWIDE, BRIDGE, STREET, AND SIDEWALK IMPROVEMENTS

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

Public Works Director Parkinson provided a presentation of the five projects that are covered under this bonding Resolution as follows:

- Downtown Sidewalk Replacement Program
- Sagamore Creek Bridge Replacement
- McDonough Street Area Improvements
- Aldrich Road Traffic Safety Improvements
- Pease International Tradeport Roadway Rehabilitation

<u>Susan Denenberg</u> spoke opposed to the installation of brick sidewalks. She said brick sidewalks are difficult to maneuver and creates safety issues.

With no further speakers, Mayor Spear declared the public hearing closed.

B. RESOLUTION AUTHORIZING A BOND ISSUE OF UP TO FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) FOR FY13 SCHOOL FACILITIES IMPROVEMENT

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

School Business Manager Steve Bartlett provided a presentation on the School Facilities Capital Improvements. He outlined the projects covered under this Resolution as follows:

- Replacement of the older sections of the high school roof, not replaced under previous projects, which are now leaking.
- Elementary school computer lab building infrastructure improvements to keep pace with newer technology upgrades
- Replacement of the existing boiler at New Franklin School with a new energy efficient model providing healthier student environment and energy savings

With no speakers, Mayor Spear declared the public hearing closed.

- C. VARIOUS HOUSEKEEPING AMENDMENTS TO THE CITY'S CODE OF ORDINANCES
 - CHAPTER 1, ARTICLE VI RESIDENCY REQUIREMENTS DELETE IN ITS ENTIRETY
 - CHAPTER 3, ARTICLE I, SECTION 3.111 HOGS DELETE IN ITS ENTIRETY
 - CHAPTER 5, ARTICLE I, SECTION 5.102 RESIDENTS OF THE CITY DELETE IN ITS ENTIRETY
 - CHAPTER 5, ARTICLE I, SECTION 5.103 AGE LIMIT DELETE IN ITS ENTIRETY
 - CHAPTER 6, ARTICLE VI DANCING DELETE IN ITS ENTIRETY
 - CHAPTER 9, ARTICLE II SUNDAY ORDINANCES DELETE IN ITS ENTIRETY

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

City Attorney Sullivan reviewed the proposed amendments that are considered housekeeping items in the ordinance book. He informed the City Council that these amendments were brought forward by Councilor Lown and there will be other adjustments and improvements coming in the future.

<u>Shaun Rafferty</u> asked if a person could walk through the City with a hog or cow under the current ordinances. City Attorney Sullivan stated that it could be done under the current ordinances.

With no further speakers, Mayor Spear declared the public hearing closed.

- D. ORDINANCE AMENDING CHAPTER 7, ARTICLE I, SECTION 7.102 PARKING METER ZONES
 - DOWNTOWN HIGH OCCUPANCY ZONE: PARKING SHALL BE AT THE RATE OF ONE DOLLAR FIFTY CENTS (\$1.50) PER HOUR IN THE FOLLOWING AREAS:
 - DANIEL STREET, STARTING AT CHAPEL STREET THROUGH TO MARKET SQUARE
 - 2. BOW STREET, STARTING AT CHAPEL STREET THROUGH TO MARKET STREET
 - 3. CONGRESS STREET, STARTING AT MARKET SQUARE THROUGH TO CHESTNUT STREET
 - 4. PLEASANT STREET, STARTING FROM COURT STREET THROUGH TO MARKET SQUARE
 - 5. MARKET STREET, STARTING FROM MOFFATT-LADD HOUSE THROUGH TO MARKET SQUARE
 - PARKING IN ALL OTHER PARKING METER ZONES SHALL BE AT THE RATE OF ONE DOLLAR (\$1.00 PER HOUR)

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

Public Works Director Parkinson reported that there are 782 parking meters in the downtown with 159 in high occupancy areas. He also reported 623 meters are located outside the high occupancy areas.

<u>Doug Bates</u>, Chamber of Commerce, said the key to making this ordinance work would be through way-finding signage. He said that the zones need to be recognizable by residents and visitors.

<u>Susan Denenberg</u> spoke in favor of the incentive parking with different zones. She encouraged getting information out on the rates and areas. Ms. Denenberg also recommended that the City Council advertise the free lots more that are available for parking.

Ron Zolla said downtown parking policies are important to keep the downtown vibrant. He suggested improving the omnibus ordinance. He also stated commercial vitality depends upon its visitors. Mr. Zolla spoke regarding the increase to parking meter rates two years ago by 33% and the addition of Sunday enforcement of meters. He stated if the Council continues to raise the rates people will stop coming to the downtown. Mr. Zolla stated giving a free hour of parking will not change buyer's patterns. He recommended issuing a sticker to residents to park in the garage and providing them 4 free hours of parking after 6:00 pm.

<u>Ed Barkley</u> stated that parking is a difficult issue and decision. He spoke regarding Newburyport, MA providing businesses in their downtown free parking for the first 30 minutes.

<u>Barbara Destefano</u> spoke in support of the \$1.50 rate for meters in the core areas and suggested creating a 3 hour limit. She also spoke regarding the safety of the parking garage and its poor lighting.

<u>Shaun Rafferty</u> stated he would support the involvement of Portsmouth Listens in the discussions on parking. He said residents should be thought of first, and visitors second.

With no further speakers, Mayor Spear declared the public hearing closed.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. *Acceptance of Donations to Fire Department Re: Kearsarge Project
 - Anonymous \$40.00
 - William B. Hart \$100.00
 - The Sharon R. Berger Trust \$100.00
 - Carla Fletcher Johnson \$250.00
 - Donald E. & Ann F. Hare \$500.00
 - Northeast Auctions by Ronald Bourgeault LLC - \$5,000.00

Councilor Smith moved to approve and accept the donations to the Portsmouth Fire Department, as listed. Seconded by Assistant Mayor Lister. On a unanimous roll call vote 9-0, motion passed.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

A. Report Back from Planning Board and First Reading of Proposed Ordinance which would amend the Zoning Ordinance, Chapter 10, to Rezone 143 Daniel Street (former Connie Bean Property) from Municipal to Central Business B (CBB) and also, to place that property in the Downtown Overlay District (DOD)

Councilor Coviello moved to pass first reading and schedule a public hearing and second reading of the proposed Ordinance Amendments, as presented, at the October 22, 2012 City Council meeting. Seconded by Councilor Lown. On a unanimous roll call vote 9-0, motion passed.

B. Adoption of Resolution Authorizing a Bond Issue of up to Two Million Two Hundred Sixty Seven Thousand Dollars (\$2,267,000.00) for FY13 Citywide, Bridge, Street, and Sidewalk Improvements

Councilor Lown moved to adopt the proposed Bond Resolution for Citywide Improvements in the amount of up to \$2,267,000.00 as submitted. Seconded by Councilor Dwyer.

Councilor Coviello asked if youths are allowed to jump off the Sagamore Bridge into the water. City Manager Bohenko stated that it is illegal for that to take place.

Councilor Thorsen asked if the sidewalk replacement on Daniel Street will be impacted by the construction taking place in the area. Public Works Director Parkinson stated the sidewalk replacement does not include the side of the street where the McIntyre Building is located. He also said the City does not want to invest dollars into something that will need to be changed.

City Manager Bohenko stated CIP projects may not occur the year funding is granted. Councilor Thorsen stated \$700,000.000 may extend to other years and asked if that adjustment would be seen in the next CIP. City Manager Bohenko said it would not. The planning process would continue and it can go out 3 years, but there are requirements on when you spend the funds.

Assistant Mayor Lister asked if the Sagamore Avenue Bridge would need to be entirely closed during the construction process. Public Works Director Parkinson responded that it would be closed during the construction period and detours would be set up surrounding it.

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

C. Adoption of Resolution Authorizing a Bond Issue of up to Five Hundred Thousand Dollars (\$500,000.00) for FY13 School Facilities Improvements

Assistant Mayor Lister moved to adopt the proposed Bond Resolution for School Facilities Improvements in the amount of up to \$500,000.00 as submitted. Seconded by Councilor Coviello.

Councilor Dwyer asked if schools were considering moving away from the installation of computer labs. Superintendent McDonough stated the school is moving towards bringing computers into the classrooms. He reported there are labs in 3 elementary schools and they would continue to operate but are in need of electrical upgrades.

School Business Administrator Bartlett spoke to the technology program and the need for upgrades at the elementary schools. Councilor Coviello asked how much of the \$500,000.00 will be used for the computer upgrades. School Business Administrator Bartlett replied \$20,000.00.

Councilor Thorsen asked about the boiler and if money was allocated in an earlier CIP. Mr. Bartlett stated it has never been in the CIP. City Manager Bohenko said that it is in the general fund, but not as an expenditure.

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

- D. Second reading of Various Housekeeping Amendments to the City's Code of Ordinances.
 - Chapter 1, Article VI RESIDENCY REQUIREMENTS delete in its entirety
 - Chapter 3, Article I, Section 3.111 HOGS delete in its entirety
 - Chapter 5, Article I, Section 5.102 RESIDENTS OF THE CITY delete in its entirety
 - Chapter 5, Article I, Section 5.103 AGE LIMIT delete in its entirety
 - Chapter 6, Article VI DANCING delete in its entirety
 - Chapter 9, Article II SUNDAY ORDINANCES delete in its entirety

Councilor Kennedy moved to pass second reading and schedule a third and final reading of the proposed Ordinance Amendments, as presented at the October 22, 2012 City Council meeting, and, add an appendix to the City's Ordinance Book. Seconded by Councilor Coviello. On a unanimous roll call vote 9-0, motion passed.

- E. Second reading of Ordinance Amendment to Chapter 7, Article I, Section 7.102 Parking Meter Zones
 - Downtown High Occupancy Zone: Parking shall be at the rate of one dollar fifty cents (\$1.50) per hour in the following areas:
 - 1. Daniel Street, starting at Chapel Street through to Market Square
 - 2. Bow Street, starting at Chapel Street through to Market Street
 - 3. Congress Street, starting at Market Square through to Chestnut Street
 - 4. Pleasant Street, starting from Court Street through to Market Square
 - 5. Market Street, starting from Moffatt-Ladd House through to Market Square
 - Parking in all other parking meter zones shall be at the rate of one dollar (\$1.00 per hour)

Councilor Coviello moved to pass second reading and schedule a third and final reading of the proposed Ordinance Amendments, as presented, at the October 22, 2012 City Council meeting. Seconded by Councilor Dwyer.

Councilor Thorsen stated that this would adjust a previously updated ordinance and reduce areas back to \$1.00 which is why he will support the motion however, he would prefer no increase.

Councilor Smith moved to bring all parking meters back to \$1.00. Seconded by Councilor Kennedy.

Councilor Smith said any increase is a tax on residents and raising the meters to \$1.50 it becomes the highest rate in New England. He stated that Portsmouth has received a great deal of accolades and does not want to be on the list of having the highest parking rates. Councilor Smith also said the tier rates would add to the confusion that already exists.

Councilor Dwyer said that Councilor Smith's motion is out of order because the Council passed an omnibus ordinance that was different than this motion. Mayor Spear asked City Attorney Sullivan if Councilor Smith's motion affects the notice on the ordinance and whether it is a substantial change. City Attorney Sullivan stated because the City Council has already considered the matter, Councilor Smith's motion would be out of order.

Councilor Smith's motion was ruled out of order.

Councilor Dwyer addressed signage for parking and at the parking garage. She also stated that the Council needs to try and experiment with things to see what works. She said there have been over 50 opportunities for public comment on matters relating to parking in the last year with various boards and recommended the Council keep doing incremental changes.

Councilor Lown said he agrees with Councilor Dwyer's comments. He said this is a trial process, and if changes need to be made, the Council will change them. He further stated the vote is to change the rate on two-thirds of the meters in the City and reduces the fees for the 623 spaces in the downtown area.

Assistant Mayor Lister said he agrees there is a need for more signage for parking. He said we need the downtown to be a welcoming space to visit and he never wanted Sunday parking enforcement. He stated that he does not support any increase in the rates but would like to make a motion to increase the fines, if it is appropriate.

Councilor Coviello said parking is complicated with varying opinions and parking at high demand places would have a cost involved with it.

Councilor Kennedy stated she would vote in support in order to try this. She said there should not be parking meter enforcement on Sunday's. She also stated the Council should not increase parking rates to prove there is a need for more use of the parking garage.

Councilor Novelline Clayburgh said she would support the motion and feels the Council needs to try various changes to see what will work. She also stated this would encourage the use of the parking garage. Councilor Novelline Clayburgh spoke in support of increasing parking fines from \$10.00 to \$15.00.

Councilor Thorsen said if Councilor Smith's amendment was out of order, then this motion is out of order, because it is changing the fines. City Attorney Sullivan stated Councilor Smith's motion was out of order because it varied too much from the public agenda.

Assistant Mayor Lister said at several meetings people have come forward stating they do not want to park in the garage because they are afraid and we need to resolve those issues.

Councilor Dwyer said if you vote for the motion, you vote to create most of the rates at \$1.00. If you vote opposed, you vote to have the rates at \$1.50.

Councilor Smith said he does not support amending the ordinance after a change has been made.

Mayor Spear said a yes vote would create two rates in the City and a no vote would mean all 782 metered spaces would be at \$1.50.

City Attorney Sullivan stated that the ordinance would take effect on January 2, 2013.

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

Assistant Mayor Lister moved to request an Ordinance be drafted for First Reading at the October 22, 2012 meeting to increase the parking fines from \$10.00 to \$15.00. Seconded by Councilor Coviello.

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

X. CONSENT AGENDA

- A. Request from Trevor Bartlett, Portsmouth Halloween Parade to hold the annual parade on Wednesday, October 31, 2012 (Anticipated action move to refer to the City Manager with power)
- B. Letter from Patti Maccabe, Arthritis Foundation, requesting permission to hold the 19th Annual Jingle Bell 10k Run and Walk on Saturday, December 1, 2012 (Anticipated action move to refer to the City Manager with power)

- C. Acceptance of Police Department Donations:
 - St. Andrew's Lodge #56 in support of the Portsmouth Police Honor Guard -\$500.00
 - Dr. & Mrs. David Ferland in support of the Portsmouth Police Explorer Cadets
 \$48.00
 - Mr. Frank Mastan in support of the Portsmouth Police Honor Guard \$45.00 (Anticipated action move to approve and accept the donations to the Portsmouth Police Department, as listed)
- D. Request for Approval of Pole License to install/replace 6 poles located on Gosling Road (Anticipated action move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes)
- E. Request for License from Paul Ambrose, owner of Grain Surfboards Wood Shop for property located at 74 Congress Street for a projecting sign on an existing bracket (Anticipated action move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Paul Ambrose, owner of Grain Surfboards Wood Shop for a projecting sign at property located at 74 Congress Street and, further, authorize the City Manager to execute License Agreements for this request)

Planning Director's Stipulations:

- The licenses shall be approved by the Legal Department as to content and form;
- Any removal or relocation of the projecting signs, for any reason, will 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 signs, 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
- F. Request for License from Hans and Linda Van der Does, owner of Toko Indo, Inc. for property located at 111 Market Street for a projecting sign on an existing bracket (Anticipated action move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Hans and Linda Van der Does, owner of Toko Indo, Inc. for a projecting sign at property located at 111 Market Street and, further, authorize the City Manager to execute License Agreements for this request)

Planning Director's Stipulations:

- The licenses shall be approved by the Legal Department as to content and form;
- Any removal or relocation of the projecting signs, for any reason, will 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 signs, 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

Councilor Coviello moved to adopt the Consent Agenda. Seconded by Councilor Kennedy. On a unanimous roll call vote 9-0, motion passed.

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

A. Letter from Kelly and Jake Weinstein of property located at 809 State Street requesting the City keep brick sidewalks where they currently exists along the front of their home rather than replacing them with concrete

Councilor Lown moved to accept the letter and place it on file. Seconded by Assistant Mayor Lister. On a roll call vote 8-1, motion passed. Assistant Mayor Lister, Councilors Coviello, Kennedy, Novelline Clayburgh, Lown, Dwyer, Thorsen and Mayor Spear voted in favor. Councilor Smith voted opposed.

B. Letter from James Ritzo, Attorney representing Leonard McAuliffe regarding Request for Restoration of Involuntarily Merged Lots 452-460 Richards Avenue – McAuliffe Realty Trust

Councilor Coviello moved to refer to the Legal Department for report back. Seconded by Assistant Mayor Lister.

Councilor Dwyer asked the Legal Department to summarize the decision basis from the prior Council votes on this type of request at the next Council meeting.

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

C. Letter from Shaun Rafferty requesting the City Council ask the residents and voters of Portsmouth if they want a second municipal garage

Councilor Coviello moved to refer the letter to the Parking Garage Site Selection Committee. Seconded by Councilor Lown.

Councilor Kennedy said the missing piece is the conversation with the public on their comments. She asked how to create dialogue for a response to the public. She suggested discussing this at the Council Retreat.

Councilor Coviello stated that a public comment session was held at the Parking Garage Site Selection Committee meetings, with questions brought forward and answers received back.

Councilor Dwyer said the public comment session is held at the end of the meeting at the Parking Garage Site Selection Committee meetings. She indicated that type of dialogue may be difficult at these meetings because they run late. She stated the City of Dover breaks up public comment on their agenda and allows for comment periods. Councilor Dwyer also indicated that everything cannot have a dialogue.

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

D. Letter from Linda Harvey regarding her opposition to a second parking garage at the Worth Lot but supporting a second garage at the Parrott Avenue Lot

Councilor Coviello moved to refer the letter to the Parking Garage Site Selection Committee. Seconded by Councilor Novelline Clayburgh. On a unanimous roll call 9-0 vote, motion passed.

E. Letter D. Allan Kerr, Thresher Memorial Project Group, requesting the City of Portsmouth support and endorse the project to install a 129' flagpole and monument in Kittery's Memorial Circle on Sunday, April 7, 2013 as a permanent memorial

Assistant Mayor Lister moved to refer to the Veterans Organization Committee for a recommendation and report back. Seconded by Councilor Smith. On a unanimous roll call vote 9-0, motion passed.

F. Letter from Attorney Peter Loughlin regarding Parking Spaces in front of Portwalk Hanover Street Garage Entrance

Assistant Mayor Lister moved to refer to the Legal Department for report back. Seconded by Councilor Coviello. On a unanimous roll call vote 9-0, motion passed.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Proposed Work Session Re: Report Back on Parking Garage Site Selection Committee

City Manager Bohenko recommended conducting a Work Session on October 15, 2012 at 6:30 p.m. to review and discuss report from the Parking Garage Site Selection Committee.

Councilor Coviello moved to establish a Work Session on Monday, October 15, 2012 at 6:30 p.m. in the City Council Chambers regarding a review and presentation of the final report from the Parking Garage Site Selection Committee. Seconded by Councilor Novelline Clayburgh. On a unanimous roll call vote 9-0, motion passed.

City Manager Bohenko stated that the question of how to make meetings more interactive will be added to the Council Retreat agenda. Councilor Coviello asked if we could remove the matter of a bike friendly community off the retreat agenda. Councilor Lown stated he does not feel the topic will require much time; as it is a report back on the method for the submittal of an application to become a bike friendly community, therefore he would prefer it to remain on the agenda.

B. MAYOR SPEAR

- 1. Appointments to be Considered:
 - Appointment of Francesca Marconi Fernald to the Peirce Island Committee
 - Appointment of George Melchior to the Historic District Commission as a regular member (currently an alternate)

The City Council considered the appointment of Francesca Marconi Fernald to the Peirce Island Committee and appointment of George Melchior to the Historic District Commission as a regular member (*currently an alternate*) filling the expired term of Elana Maltese.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Dwyer reported on the Portsmouth Middle School Open House and advised the Council that the demolition of the 1930 building is completed. She also stated the Joint Building Committee will be evaluating issues that need to be addressed as they move forward with the project.

Councilor Kennedy asked where the City stood on hiring a Senior Services Coordinator. City Manager Bohenko stated resumes have been collected and we will be hiring someone in the next few weeks. Councilor Kennedy inquired as to the money promised from the sale of the Parrott Avenue property. City Manager Bohenko said that matter would need to be directed to Mr. Henson.

Councilor Dwyer stated she will be serving as a panelist for the Municipal Advocacy Governors Candidates on October 16, 2012 and if anyone has any questions for her to bring forward to provide those to her by the end of the week.

XIV. ADJOURNMENT [AT 10:00PM OR EARLIER

At 9:30 p.m., Councilor Coviello moved to adjourn. Seconded by Councilor Smith and voted.

Kelli L. Barnaby, CMC/CNHMC

City Clerk