

## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, MAY 20, 2013

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

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

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

### **II. ROLL CALL**

Present: Mayor Spear, Assistant Mayor Lister, Councilors Coviello, Kennedy, Novelline Clayburgh, Lown, Dwyer, Smith and Thorsen

### **III. INVOCATION**

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

### **IV. PLEDGE OF ALLEGIANCE**

Councilor Smith led the Pledge of Allegiance to the Flag.

### **PRESENTATIONS**

#### **1. Public Works Director Steve Parkinson**

City Manager Bohenko thanked Public Works Director Parkinson for his 31 years of service to the City, wished him well in his future endeavors and presented him with a chair in honor of his retirement. Public Works Director Parkinson thanked City Manager Bohenko, City Council and staff for their support over the years.

#### **2. Fire Chief Christopher LeClaire**

City Manager Bohenko thanked Fire Chief LeClaire for his 13 years of service as Fire Chief, wished him well in his new position with Newburyport, MA and presented him with a chair in honor of his retirement. Fire Chief LeClaire thanked City Manager Bohenko, City Council, Fire Commission and staff for their support over the years.

**Assistant Mayor Lister moved to suspend the rules in order to take up Item XI. A.1. – Approval of Proposed Employment Agreement for Fire Chief Designee Steven Achilles. Seconded by Councilor Lown and voted.**

XI. A.1. Approval of Proposed Employment Agreement for Fire Chief Designee Steven Achilles

**Assistant Mayor Lister moved to approve the Employment Agreement between Steven Achilles and the Portsmouth Fire Commission for a 4-year term expiring on June 30, 2017. Seconded by Councilor Smith and voted.**

Fire Chief Designee Achilles thanked the City Council, Fire Commission, Fire Department staff, City Manager Bohenko and Fire Chief LeClaire for their support and encouragement.

3. Update on Coastal Resilience Initiative - Peter Britz, Environmental Planner/Sustainability Coordinator

Environmental Planner/Sustainability Coordinator Britz provided an update to the Council regarding the Coastal Resilience Initiative. He reported on the study which was one of 6 projects in New England funded by the Gulf of Maine Council on the Marine Environment and the Northeast Regional Ocean Council. The project reviewed the potential impacts of storm surges and sea level rise in the City, focusing on impacts to buildings, infrastructure and coastal wetlands. Mr. Britz announced the Planning Department has schedule a community meeting for Wednesday, May 29<sup>th</sup>, where the results of the study will be shared with the public and public input will be solicited. The meeting will be held at the Portsmouth Library in the Levenson Community Room from 5:30 p.m. – 8:00 p.m.

4. Update on Citywide Wayfinding Plan – Juliet Walker, Transportation Planner

Transportation Planner Walker provided an update to the Council on the Citywide Wayfinding Plan. She reported that the first phase is under way with a purpose to develop a dependable and standardized wayfinding plan that identifies appropriate wayfinding types, messaging, locations, and uniform design.

The second phase will include the fabrication and installation of portions of the wayfinding system. She reviewed and showed renderings of the 3 themes of signs that have been proposed which are historic, maritime and arts/culture. Ms. Walker advised the City Council that the final plan should be presented to the Council in August or September.

**V. ACCEPTANCE OF MINUTES** *(There are no minutes on for acceptance this evening)*

**VI. PUBLIC COMMENT SESSION**

Tom Carroll passed a jar of materials collected along Market Street to the City Council. He spoke to his letter of complaint to the PDA regarding the scrap metal operations at the Port. He said that this has been an issue for the last 10 years and needs to be resolved.

City Manager Bohenko said he is working with the PDA and the Port has purchased a sweeping machine to keep the dust within the yard.

Keith Eveland, Rye, NH said he will be moving back to Portsmouth in the next 5 years. He advised the City Council that he comes to Portsmouth every day and parks at the Parrott Avenue Lot. He expressed concerns with the development that has taken place in the City.

Karen Bouffard spoke regarding brick sidewalks on Richards Avenue and that the area has been under construction the last decade. She urged the Council to install brick sidewalks on both sides of the street where this is in the Historic District.

Rhonda Stacy-Cole indicated she purchased an historic home on Richards Avenue and expressed opposition to the brick sidewalks being replaced with concrete.

Robert Hassold thanked the City Council for their valuable time and the job they're doing. He spoke opposed to the reduction of days for holiday parking and the idea of adding 2 hours to enforce meters until 9:00 p.m.

Natalie Hassold said she agrees with comments made by Bob Hassold.

Chris Norwood spoke regarding the brick sidewalks on Richards Avenue. He stated that there are 24 – 25 property owners that would be impacted by this matter.

Ralph DiBernardo spoke regarding the new zoning ordinance proposal for conditional use permits. He expressed concern with granting zoning changes and that the system favors developers in the City. Mr. DiBernardo addressed the Planning Board process and said they need to recognize the needs of residents.

Claire Kittredge said we need to have an emergency 35 foot building height put in place. She said huge projects are going up and the residents need time to review the form base zoning proposal. Ms. Kittredge urged the City Council from reappointing members of the Historic District Commission for three year terms.

David Noard urged the City Council to impose impact fees for new developments in the City. He stated that the Historic District Commission and Planning Board affect the tax rate because of development. He stated that the City needs to maintain its character before it is lost.

Paul Mannle asked the City Council to vote against any changes to the Office Research District. He said we should not make a change to the zoning for the sale of a property, and that such a change will set a very bad precedent for the City.

## **VII. APPROVAL OF GRANTS/DONATIONS**

*(There are no items under this section of the agenda this evening)*

## **VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

- A. First reading of Ordinance amendment to Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards and Article 15 – Definitions, by inserting a new Section 10.740 – Conditional Use Residential Development

City Manager Bohenko advised that there will be a short presentation by Planning Director Taintor before moving to first reading on this proposed zoning ordinance amendment.

Planning Director Taintor said that this would be a change of zoning for property located at 1900 Lafayette Road. He showed the location of the property by way of a map, which provided an overview of the area. He stated this is in the Office Residential District facing a Residential Zoning District. He stated that Office Research is a fairly restrictive district and this change provides additional development options. He stated that this is a limited proposal allowed on a case by case basis by conditional use permits.

**Councilor Novelline CLayburgh moved to pass first reading and schedule a public hearing and second reading of the proposed Ordinance, as presented, at the June 3, 2013 City Council meeting. Seconded by Councilor Dwyer for discussion.**

Councilor Lown informed the Council he would need to recuse himself because of a professional conflict.

Councilor Kennedy asked how many units could fit on the property if the zoning change went through. Planning Director Taintor said approximately 70 dwelling units or 120 assisted living units. Councilor Kennedy expressed concern with spot zoning in this case. City Attorney explained the term of spot zoning and indicated that the Planning Department said there are principles for the change and therefore it is not spot zoning.

Discussion followed regarding this matter.

Mayor Spear passed the gavel to Assistant Mayor Lister.

Mayor Spear said he served on the Planning Board with this issue and there was enough neighborhood opposition to exclude the property from the Gateway.

Assistant Mayor Lister returned the gavel to Mayor Spear.

Assistant Mayor Lister expressed concern with the number of units that would be allowed under the change. He said there should be public input on this matter.

Councilor Thorsen said he would not support first reading because he feels it should come forward as a generalized plan.

Planning Director Taintor stated that one side of the street should not have been zoned one way and the opposite side as another zone.

Councilor Kennedy said she would not support the first reading and stated she is concerned not with just this parcel.

Councilor Dwyer said she is hearing questions with the number of units, which is a density issue.

City Manager Bohenko stated that the City Council could vote to refer this back to the Planning Board for more review and consideration of the comments made. He feels there are enough questions for additional review by the Planning Board.

Assistant Mayor Lister moved to refer to the Planning Board for report back to the City Council. Seconded by Councilor Coviello and voted. Councilor Lown abstained from voting on this item.

## IX. CONSENT AGENDA

### ***A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA***

Councilor Coviello requested Item E - Request for License from Steven McHenry, owner of McHenry Architecture for property located at 4 Market Street for a projecting sign on a new bracket to be removed from the Consent Agenda to vote on the item separately.

- A. Letter from Kim Blanchard, National Multiple Sclerosis Society, requesting permission to hold 2013 Bike MS NH Seacoast Escape on Saturday, August 24, 2013 ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Ken LaValley, American Foundation for Suicide Prevention requesting permission to hold the Out of the Darkness Community Walk on Saturday, October 5, 2013 from 8:00 a.m. – Noon ***(Anticipated action – move to refer to the City Manager with power)***
- C. Request for License from Michael Michalski, owner of Helene M for property located at 24 Congress Street for a projecting sign on a new bracket ***(Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Michael Michalski, owner of Helene M for a projecting sign at property located at 24 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***

- D. Request for License from Timberline Signs, owner of White Heron Tea & Coffee for property located at 601 Islington Street for a projecting sign on a new bracket ***(Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Timberline Signs, owner of White Heron Tea & Coffee for a projecting sign at property located at 601 Islington 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 Lown moved to adopt items A - D of the Consent Agenda, as presented. Seconded by Assistant Mayor Lister and voted.

- E. Request for License from Steven McHenry, owner of McHenry Architecture for property located at 4 Market Street for a projecting sign on a new bracket

Councilor Lown moved to ***accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Steven McHenry, owner of McHenry Architecture for a projecting sign at property located at 4 Market Street and, further, authorize the City Manager to execute License Agreements for this request.*** Seconded by Assistant Mayor Lister and voted. Councilor Coviello abstained.

**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***

## **X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Letter from Tom and Zelita Morgan requesting that the Richards Avenue sidewalks be replaced with brick and not concrete
- B. Letter from Stephen Brady regarding sidewalks at the end of Richards Avenue joining Middle Street

**Councilor Kennedy moved to refer to the City Manager and City staff for report back to the City Council. Seconded by Assistant Mayor Lister and voted.**

City Manager Bohenko stated he would like to put on hold any replacement of sidewalks in this area. He suggested holding a neighborhood meeting to hear input from residents.

Councilor Lown said he would like to see something worked out that is equitable to the neighborhood.

- Letter from Tom and Zelita Morgan requesting the Historic District be expand south to Parrott Avenue and westerly to the intersection of Austin & Summer Streets (part of the letter listed above in Item X. A.).

**Councilor Kennedy moved to refer this matter to the Planning Board for report back to the City Council. Seconded by Councilor Thorsen and voted.**

## **XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

### **A. CITY MANAGER**

#### **Informational Items**

1. Events Listing
2. Work Session Re: Development Moratorium

City Manager Bohenko announced Mayor Spear established a date of Tuesday, May 28, 2013 to conduct a Work Session between the City Council and Planning Board regarding a building moratorium. The work session will start at 6:30 p.m., in the Eileen Dondero Foley Council Chambers.

### **B. MAYOR SPEAR**

1. \*Parking Revenues (*Postponed from the last meeting due to the late hour*)
  - Holiday Parking – reduce from 18 days to 10 days

Mayor Spear passed the gavel to Assistant Mayor Lister.

**Mayor Spear moved to reduce the number of Holiday Free Parking from 18 to 10 days. Seconded by Councilor Lown.**

**Councilor Novelline Clayburgh moved to amend the motion to refer to the Parking & Traffic Safety Committee for report back to the City Council. Seconded by Councilor Kennedy.**

City Attorney Sullivan stated that Councilor Novelline Clayburgh's motion takes precedent over the Mayor Spear's motion and no amendment is necessary.

Councilor Lown said that this is a City Council issue and Mayor Spear has a right to raise the motion. He feels downtown employees would park for as long as they want.

Councilor Thorsen said we have time to consider this matter and wants to hear back from the Parking & Traffic Safety Committee because they make the recommendation. He would like to have a more informed decision.

Councilor Smith said employees cannot park in the same place all day because parking enforcement still occurs and tires are chalked. He stated the staff and Parking Director have done a great job to ensure the meters are enforced. He said people enjoy the holiday parking and some people still feed the meters.

**Motion passed.**

Assistant Mayor Lister returned the gavel to Mayor Spear.

2. \*Ideas for Senior Committee

Mayor Spear announced he would be establishing a Blue Ribbon Committee for Senior's at the next City Council meeting.

Councilor Kennedy said she would like to ask the current committee who they would like to see on this new committee. She suggested rather than creating a Government Committee we should send support to help the current committee through the process.

Councilor Smith asked Mayor Spear if this would be a standing committee or a Blue Ribbon Committee. Mayor Spear stated a Blue Ribbon Committee. Councilor Smith said a new Council could inactivate the committee. He further stated most of these functions fall to the Recreation Board and would like to see this as a permanent committee with the involvement of the Recreation Board.

3. Appointments to be Considered:

- Joseph Almeida – Reappointment to the Historic District Commission
- Tracy Kozak – Reappointment to the Historic District Commission

The City Council considered the above referenced appointments which will be voted on at the June 3, 2013 City Council meeting.



4. Appointments to be Voted:
- Daniel Rawling – Reappointment to the Historic District Commission
  - Jonathan Wyckoff – Reappointment to the Historic District Commission
  - Kory Sirmaian – Reappointment to the Recreation Board

**Councilor Coviello moved to reappoint Daniel Rawling to the Historic District Commission. Seconded by Councilor Lown.**

Councilor Thorsen stated due to the concerns voiced this evening he would need more time before voting on any of these reappointments.

**Councilor Thorsen moved to postpone the reappointment until the next City Council meeting to consider what is going on with the Historic District Commission and to allow for more thought. Seconded by Councilor Dwyer.**

Councilor Dwyer stated the individuals serving on the Historic District Committee are qualified and there is nothing wrong with them but maybe issues with the process.

Councilor Smith said he would like to receive a report from the City Attorney outlining the enabling legislation for the Historic District Committee to be formed.

Councilor Kennedy said she hears the concerns regarding the size of buildings and feels the Planning Board, Historic District Commission and Board of Adjustment need to meet the mission of the City Council. She said the Historic District Commission needs support on what the Council would like to see in the City historically. She hopes the form based zoning gives us direction.

Councilor Novelline Clayburgh said we need to applaud our City staff and Planning Department for bringing forward the Charrette to talk about their ideas and allowing the community to get involved.

Councilor Dwyer stated that no one is saying they would vote someone down. Councilor Thorsen said he in no way intended to not reappoint someone.

Discussion continued regarding the Historic District Commission.

**On a roll call 5-4, voted to postpone the reappointment until the next City Council meeting to consider what is going on with the Historic District Commission and to allow for more thought. Assistant Mayor Lister, Councilors Kennedy, Dwyer, Smith and Thorsen voted in favor. Councilors Coviello, Novelline Clayburgh, Lown and Mayor Spear voted opposed.**

Mayor Spear withdrew the application of Jonathan Wyckoff.

**Councilor Smith moved to reappoint Kory Sirmaian to the Recreation Board until April 1, 2016. Seconded by Councilor Coviello and voted.**

Mayor Spear spoke to the letter he sent to the DES to request monitoring equipment for the rust dust at the Port.

**Councilor Smith moved to suspend the rules in order to continue the meeting beyond 10:00 p.m. Seconded by Councilor Coviello and voted. (This motion was made at 10:30 p.m.)**

**C. ASSISTANT MAYOR LISTER**

1. Authorize the City Manager to proceed with further evaluation for Doble Reserve Center as possible site for Senior/Community Center

**Assistant Mayor Lister moved to authorize the City Manager to proceed with further evaluation of the Doble Reserve Center as a possible site for the Senior/Community Center. Seconded by Councilor Smith.**

Councilor Lown said that the City does a great deal for seniors and he feels the site would be a perfect location for more athletic fields which are needed.

Councilor Coviello stated he does not like putting community centers where they can only be accessible by vehicles.

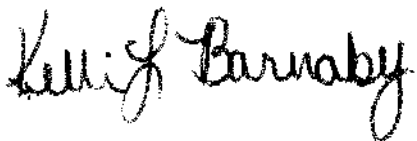
**Motion passed.**

**XII. MISCELLANEOUS/UNFINISHED BUSINESS**

Councilor Kennedy indicated she would like to schedule a work session between the City Council and Historic District Commission to discuss where we are and what support the HDC might need going forward.

**XIII. ADJOURNMENT**

**At 10:45 p.m., Councilor Coviello moved to adjourn. Seconded by Councilor Lown and voted.**



Kelli L. Barnaby, CMC/CNHMC  
City Clerk