

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: TUESDAY, FEBRUARY 3, 2015

PORTSMOUTH, NH
TIME: 6:15PM

At 6:15 p.m., the City Council held a Work Session with the School Department regarding Capital Improvement Plan (CIP) Projects.

I. CALL TO ORDER (7:00PM)

At 7:15 p.m., Mayor Lister called the regular City Council meeting to order.

II. ROLL CALL

Present: Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Lown, Dwyer, Morgan, Spear and Thorsen

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

Joe Plaia led in the Pledge of Allegiance to the flag.

Mayor Lister acknowledged Peter Rice, Public Works Director and the entire Public Works staff for all their work with the recent snow storms and their removal efforts. He requested that the residents be patient and understanding due to the amount of snow that we have had in the last week.

PRESENTATION

1. Comprehensive Annual Financial Report (CAFR) – Scott McIntire of Melanson, Heath & Company, P.C. Auditors' Financial Report for the Year Ending June 30, 2014 (Annual Audit)

Scott McIntire provided a review of the City of Portsmouth Comprehensive Annual Financial Report for the Year Ending June 30, 2014. Scott reported that a review of our financial statements are in accordance with accounting principles generally accepted in the United States and the standards applicable to financial audits contained in Government Auditing Standards. He advised the City Council that the City's Unassigned Fund Balance is \$11,790,868.00 and the total for all Fund Balances is \$44,620,852.00. He spoke to the increase in anticipated revenues for motor vehicles and parking fees.

Councilor Dwyer said one thing in the Management Letter indicates that we should have outside audits throughout the year. Scott stated that is a recommendation to increase the role of an internal audit and is made a great deal of time. City Manager Bohenko said we are looking at someone coming in on an hourly basis from the outside to conduct an audit review. He said he and Finance Director Belanger have been speaking regarding this matter.

Councilor Shaheen commended City Manager Bohenko and Finance Director Belanger for the excellent work.

Mayor Lister also acknowledged Judie Belanger, Finance Director; Andrew Purgiel, Deputy Finance Director and the entire Finance Department staff.

V. ACCEPTANCE OF MINUTES – JANUARY 20, 2015

Councilor Lown moved to approve and accept the minutes of the January 20, 2015 City Council meeting. Seconded by Councilor Kennedy and voted.

VI. PUBLIC COMMENT SESSION

Sarah Minella, Rise Above Plastics (RAP), spoke to the mission of RAP and the issues related to plastic bag usage. She addressed the ordinance which was drafted by a local attorney and requested that Portsmouth strongly consider adopting the ordinance which would make Portsmouth the first in the State of New Hampshire to have such an ordinance. She reported that Newburyport, MA and Portland, ME are putting this type of ordinance into effect this year.

Joe Plaia, representing Great Bay Taxi, spoke regarding the issues related to UBER operating in the City of Portsmouth. He said the City has regulations on taxis and his client feels that UBER has been allowed to operate unfairly. He said the background checks for UBER drivers are not adequate and people driving UBER vehicles have DWI's on their records. He said the insurance is also not adequate and insurance companies are refusing to insure them. Attorney Plaia expressed concern regarding the lack of inspections by the City for the UBER vehicles.

Clayton Schermerhorn, Kingston, NH resident, said he is the competition in the City of Portsmouth for taxis. He said people prefer taking rides in his taxis versus other companies in the City.

Mark Brighton spoke opposed to the City enacting an ordinance regulating the use of plastic bags.

Arthur Clough said that residents are being pushed out of the City of Portsmouth due to the high taxes. He said the City has grown too much and he is concerned with the lack of control in terms of growth in the City. He also said we need to bring in people with other points of view for serving on Boards and Commissions in the City.

VII. PUBLIC HEARING

- A. CAPITAL IMPROVEMENT PLAN (CIP) FY2016-2021 (***Action on this matter will be taken at the February 17, 2015 City Council meeting***)

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

Rick Becksted said the Capital Improvement Plan (CIP) has some big numbers and more than taxpayers or businesses have to pay. He said the City is going to have neighborhoods feuding against each other. He said building a parking garage should not be part of the CIP. He said if a parking garage is built he hopes it does not cost the taxpayers any money. He suggested purchasing the Frank Jones Center. Mr. Becksted said we need to look at what we are spending with the CIP.

Cliff Lazenby thanked the Public Works Department for their hard work over the last few days with the snow storm and the snow removal. He said the Planning Director, City Manager, Public Works Director and various departments do important work on the CIP. He said there is a gap in the CIP process and deals with balance in all wards of the City. He said there should be equitable funds given throughout the City. Residents from Peverly Hill Road have suffered from no sidewalks and speeding vehicles while other neighborhoods get their projects completed. Mr. Lazenby said you cannot tell the long range trends because the City does not keep track of that. He said residents do not have access to this valuable information because it is not measured by the City. He spoke to a spreadsheet created by the Citywide Neighborhood Committee to measure areas in the City where projects have been completed over other areas.

Marie Kelleher said that there needs to be more equitable distribution of funds in the CIP for Wards 3 and 4. She said requests from Peverly Hill Road have been made many times over the years. She stated that the City has devalued resident's homes on Peverly Hill Road from not doing projects as requested by the neighborhood.

Lee Frank said there should be a need based approach for CIP funds. He said Madison Street needs to be completely resurfaced and have new sidewalks installed. He said the street is in terrible condition.

Rick Condon said Madison Street does need to be resurfaced with new sidewalks. He said he has lived in his home since 1986 and the street has never been resurfaced.

Sara Sellman said there needs to be better visibility on how the CIP is created. She said there are areas in Ward 2 that are in terrible condition. The sidewalks are so bad on Madison Street, parents walk their kids down the middle of the street.

Elizabeth Gaddy said Madison Street needs to be repaved and there needs to be new sidewalks and requested the City to make it a safer street.

Kelly Mason said a need based approach for CIP makes sense. She supports this for schools as well.

Julia Russell spoke in support of Peverly Hill Road requests for improvements. She said she has lived there for 20 years and would like to see improvements made in her life time.

Cristy Cardoso, Citywide Neighborhood Committee, said often in their meetings they're asked by people how do you get the City to address an issue in their neighborhood. She said the Committee tells residents to keep asking the City to make the improvements or what ever issues they may be facing.

Arthur Clough said we need to gear up in the City we have some safety issues that need to be addressed. He said sidewalks are a concern in the City. He said we need to recognize some of the emergent situations.

Dean Colburn said he lives at the crest of Peverly Hill Road and if he tries to back out of the driveway he will be hit by a car, it is that dangerous. He said he recently put in a circular driveway so the family no longer have to deal with backing out onto Peverly Hill Road. He said there should be a place for bicycles on Peverly Hill Road. He also recently learned because he lives on Peverly Hill Road his home is less valuable than others in different areas of the City.

Erik Anderson said the component of the budget in the CIP is important. He said we are approaching a \$100 Million Dollar budget and a large portion of the budget is already set. He said there is a concern when you look at the CIP and the number of projects.

Paul Mannle said some items in the CIP should be thrown out for the same reason the Council did not approve the Fire Department's request for a Heavy Use Vehicle. He said that line item had been in the CIP since 2007 and when the Bonding Resolution came forward, you deny the funding. He also said some of the details for the projects need to be updated.

Dick Bagley said we are coming out of the worse times with the recession. The State is in bad shape. He complimented City Manager Bohenko and Finance Director Belanger for their work on our funds. He said you cannot have a CIP budget without priorities, there is really no sense in providing public input now because nothing will change. He said economic development takes precedent over schools. The City of Dover has Work Sessions where you can engage. The City needs to figure out our priority and a way for the residents to participate.

Harold Whitehouse asked the City Council to add a line item to reconstruct the bridge on Junkins Avenue to flush the mill pond. He said the culverts are not doing their job to flush the waters properly.

With no further speakers, Mayor Lister declared the Public Hearing closed.

City Manager Bohenko asked Public Works Director Rice to speak on Peverly Hill Road. Director Rice said the project received a grant for \$400,000.00 to install a sidewalk. He reported the City selected a contractor and then Federal Government pulled the funds with the Government shutdown. He reported since that time the funds are available again and the scope of work has been looked at to expand the project. Director Rice said Public Works is working with the DOT on this to look at road design before installing sidewalks. He said there are a number of things the Public Works Department wants to do. He said we want to move the sidewalk project forward and we are trying to finalize the scope of work.

City Manager Bohenko said he would ask for a presentation on the street paving management plan for the next City Council meeting by Public Works Director Rice.

Assistant Mayor Splaine requested a summary of items for Peverly Hill Road and what it would cost to implement the items for the next City Council meeting.

Councilor Thorsen said when he reviewed the data and the differences between Wards 3 and 4 he was amazed. He said Wards 1, 2 and 5 encompasses the downtown and 3 and 4 do not. He said how much are we doing in the downtown versus outside neighborhoods.

Mayor Lister declared a brief recess at 9:05 p.m. At 9:15 p.m., Mayor Lister called the meeting back to order.

VIII. APPROVAL OF GRANTS/DONATIONS

(There are no items on under this section of the Agenda)

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Elderly Real Estate Tax Exemption:

Proposed increase of Elderly Exemption by 1.7%

Single	\$36,311.00 increase of \$607.00
Married	\$44,793.00 increase of \$749.00
Asset Limit of	\$121,039.00 increase of \$2,023.00

Assistant Mayor Splaine moved to pass first reading and schedule a public hearing and adoption of the proposed Resolution at the February 17, 2015 City Council meeting, increasing the Maximum Income Limit for Individuals Qualifying for the Elderly Real Estate Tax Exemption by 1.7%, as presented. Seconded by Councilor Spear and voted.

- B. First reading of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Disabled Real Estate Tax Exemption:

Proposed increase of Disabled Exemption by 1.7%

Single	\$36,311.00 increase of \$607.00
Married	\$44,793.00 increase of \$749.00
Asset Limit of	\$121,039.00 increase of \$2,023.00

Assistant Mayor Splaine moved to pass first reading and authorize the City Manager to bring back for public hearing and adoption of the proposed Resolution at the February 17, 2015 City Council meeting. Seconded by Councilor Spear and voted.

X. CONSENT AGENDA

- A. Acceptance of Police Department Grant & Donation:
- Acceptance of Training Grant from Police Standards & Training Council for Lt. Darrin Sargent to attend the Leadership Seacoast Program - \$837.50
 - Donation from Lynne Howard for the Portsmouth Police Explorers Post - \$50.00

(Sample motion – move to approve and accept the grant and donation to the Portsmouth Police Department, as presented)

- B. *Acceptance of Donation to the Coalition Legal Fund:
- Town of Center Harbor - \$5,00.00

(Anticipated action – move to approve and accept the donation as listed, to be placed in the Coalition Legal Fund)

- C. Request for License from Helen Marks, owners of Spiritual Readings by Duchess for property located at 195 State 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 Helen Marks, owner of Spiritual Readings by Duchess for a projecting sign at property located at 195 State Street and, further, authorize the City Manager to execute License Agreements for this request)***

Planning Director's Stipulations:

- ***The license shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting sign, for any reason, shall 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 sign, 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 Terrence Parker and Jeff Demers, owners of Terra Firma Landscape Architecture & Jeff Demers Design for property located at 163 Court 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 Terrence Parker and Jeff Demers, owners of Terra Firma Landscape Architecture & Jeff Demers Design for a projecting sign at property located at 163 Court Street and, further, authorize the City Manager to execute License Agreements for this request)***

Planning Director's Stipulations:

- ***The license shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting sign, for any reason, shall 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 sign, 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 Spear moved to adopt the Consent Agenda. Seconded by Councilor Shaheen and voted.

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Mark Epply regarding an article from the New York Times entitled "When the Parking Space Becomes a Park"

No action required or taken.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Request for Approval of the Financial Disclosure Statement

Councilor Spear moved to adopt the Financial Disclosure Statement, as presented. Seconded by Councilor Shaheen and voted.

2. Request to First Reading Re: Refinancing Bond Issue for Library

City Manager Bohenko explained that we have a refunding opportunity for the Library bond issue. In the bond we had included a call provision for use of a new bond at a lower rate. He said that this would give us a savings of \$300,000.00.

Councilor Spear moved to authorize the City Manager to bring back for first reading on February 17th a Bond Resolution of up to Three Million Four Hundred Sixty Thousand Dollars (\$3,460,000.00) to refinance the remaining portion of a callable bond issued August 1, 2005 and all related costs. Seconded by Councilor Shaheen.

Councilor Lown thanked City Manager Bohenko for bringing this matter to the attention of the City Council.

Motion passed.

3. Request to Establish Work Session on Monday, March 23, 2014 at 6:30 p.m. Re: Master Plan and Impact Fees

City Manager Bohenko said we are working with Mayor Lister to bring topics for Work Sessions forward.

Councilor Morgan suggested Bruce Mayberry was a consultant for the Existing Trends Report for the Master Plan in 2005 and she would like us to reach out to him on impact fees. City Manager Bohenko said he would reach out to him.

Councilor Kennedy would like to see a time line on the Master Plan. She would like it to be available to the public. City Manager Bohenko said he would put the time line online.

Councilor Spear moved to establish a Work Session on Monday, March 23, 2015 at 6:30 p.m., in the Eileen Dondero Foley Council Chambers, regarding Impact Fees and the Master Plan. Seconded by Councilor Shaheen and voted.

4. Request for Change of City Council Work Session from Monday, April 13, 2015 to Monday, April 27, 2015

City Manager Bohenko said he would like to change the April 13th Work Session to April 27th to allow more time to get additional information to the Council on the Pease Wastewater Treatment Plant.

Councilor Spear moved to change the Work Session from April 13, 2015 to April 27, 2015, as requested. Seconded by Councilor Shaheen and voted.

Councilor Morgan said she would like all and any reports to be submitted to the City Council at least 2 days prior to the meeting. City Manager Bohenko said we could do that but items would be subject to change.

Informational items

- Reminder of Upcoming City Council Work Sessions:
 - Thursday, February 5, 2015 Re: Proposed Second Parking Garage at 165 Deer Street at 6:30 p.m.
 - Monday, February 9, 2015 Re: AIRBNB and Abandoned/Derelict Buildings at 6:30 p.m.

Councilor Kennedy said she would like to allow for public input at the February 9th Work Session regarding the AIRBNB. Mayor Lister said we would limit it to 3 minutes for the public input on the AIRBNB Work Session.

Councilor Dwyer said the Council might not get too far in that Work Session because there is enabling legislation on that issue.

Mayor Lister said we are working very closely with the Legislative Delegation on this matter.

- Rockingham County Budget Discussion

City Manager Bohenko advised the City Council that Rockingham County Commissioner Kevin St. James would like to meet with the City Council at 6:00 p.m. prior to the Work Session on February 9th.

Councilor Morgan asked how often the Rockingham County Commissioner approaches us for a meeting. City Manager Bohenko said that this is the first time since he has been with the City.

- Islington Street Charrette

City Manager Bohenko reported that the Charrette will begin on February 20th at the Frank Jones Center – February 22nd. The Closing Session and Presentation will be held on Monday, February 23rd at the Eileen Dondero Foley Council Chambers.

- Land-use Compliance Agent

City Manager Bohenko announced that the City has hired a Land-use Compliance Agent. Vincent Hayes started working today and was most recently employed by the Town of Franklin, MA as a Planner/Design Review Coordinator.

B. MAYOR LISTER

1. Appointment to be Voted:
 - Phyllis Eldridge – Reappointment to the Trustees of the Trust Funds

Assistant Mayor Splaine moved to reappoint Phyllis Eldridge to the Trustees of the Trust Fund until January 1, 2018. Seconded by Councilor Lown and voted.

C. ASSISTANT MAYOR SPLAINE

1. Taxi Commission recommendations concerning Taxi Commission / Uber / Ride-Sharing Services

Assistant Mayor Splaine moved the recommendation of the Taxi Commission be approved to request the City Attorney to draft an ordinance for the next City Council meeting. Seconded by Councilor Morgan.

Assistant Mayor Splaine said that the Taxi Commission worked on this matter a great deal and is recommending redefining the Taxi Commission. He said they would like to eliminate the medallion system and create a registration process with the City Clerk and charge \$5.00 for the registration. He said the insurance requirements will need to be determined. Assistant Mayor Splaine continued to review the discussion which took place by the Taxi Commission on this matter.

Councilor Lown said he would support the motion to have the City Attorney look at this recommendation. He thanked Assistant Mayor Splaine and the Taxi Commission for bringing this forward. He said it is a change in technology and the only reservation he has is the complete deregulation of the fares.

Councilor Dwyer said we are the only State that does not require insurance. She said she wants to make sure that commercial insurance covers taxis. She also expressed concern with price gauging. She said users of taxis are elderly and disabled. She feels we are putting a vulnerable population at risk. Councilor Dwyer also stated that there is discrimination by UBER drivers and who they pick up and she is not sure how to address that matter.

Councilor Thorsen said there are a lot of questions. He said there is a potential of consumer abuse. He said we need to deal with the classification services and how they are regulated. He said UBER appears more like a limo service versus a taxi.

Councilor Shaheen said she shares the same concerns with price gauging and she has experienced it first hand with UBER during a business trip.

Motion passed.

D. COUNCILOR LOWN

1. Plastic Bag Ordinance

Councilor Lown moved to send the Proposed Ordinance to the City Manager to be reviewed by the new Recycling Coordinator, Sustainable Committee and the City Attorney. Seconded by Assistant Mayor Splaine.

Councilor Lown said the ordinance does not apply to single-use carryout plastic bags without handles provided to the customer for the following:

- To transport produce, bulk food, or meat from a produce, bulk food, or meat department within a store to the point of sale; or
- To hold prescription medication dispensed from a Pharmacy; or
- To segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a Reusable Bag or Recycled Paper Bag

Prohibited Carryout Bags:

- No store, to include grocery store or Pharmacy, shall provide a Single-Use Carryout Plastic Bag to a Customer, at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment except as provided in this ordinance.
- No person shall distribute a Single-Use Carryout Plastic Bag at any City facility, City-managed concession, City-sponsored event, or City-permitted event unless otherwise provided in this Section.

Motion passed.

Councilor Lown moved to suspend the rules in order to continue the meeting beyond 10:00 p.m. Seconded by Councilor Shaheen and voted.

E. COUNCILOR DWYER

1. Update on Portsmouth Middle School Project

Councilor Dwyer provided a brief status update on the Portsmouth Middle School. She reported that there are still lists of items that need to be completed and the Joint Building Committee is working to make sure that those items are completed and holding back funds when necessary from the contractors.

Councilor Shaheen asked when an Open House would take place. Councilor Dwyer said in April or May.

F. COUNCILOR SPEAR

1. Election of Mayor and Council Candidates Proposed Charter Amendment

Councilor Spear stated it is his intent to bring a motion forward at the next City Council meeting regarding amendments to the City Charter that would be voted on at the next Municipal Election. He stated this would require voters to vote for a Mayoral candidate and City Council candidates separately.

Councilor Kennedy inquired as to the process with this proposed change to the Charter. City Attorney Sullivan said it depends on the proposal there are several ways to change the Charter. He said a Charter Amendment by the City Council is one way. The City Council approves some kind of Charter Amendment and then the City Council holds a public hearing and the Council votes to put it on the ballot. He said there are strict time lines you would have to make a decision by late summer.

Councilor Dwyer said how many Charter Amendments make a Charter Commission. City Attorney Sullivan said that is when the Charter Amendments added together change the form of government. He said in order to have a Charter Revision you have a Charter Commission write a report. He said amendments are simple.

Councilor Shaheen said if a proposal was to come forward that the City Council would be elected by Wards versus At-Large, what would that be considered. City Attorney Sullivan said he feels that is still an Amendment.

Councilor Morgan said as these ideas are brought forward we need to honor the residents. She said there would be a need for thorough dialogue and study circles. She said that this is very important and we need to know the pros and cons of each item.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Lown spoke to an article that appeared in the Union Leader on January 28th recognizing Portsmouth as a great city with having the largest number of young people with a Masters degree, the lowest tax rate in the State, and arts and culture.

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

At 10:30 p.m., Councilor Spear voted to adjourn. Seconded by Councilor Shaheen and voted.



Kelli L. Barnaby, CNHMC, CMC, MMC
City Clerk