

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, MAY 18, 2015

PORTSMOUTH, NH
TIME: 6:15PM

At 6:15 p.m., an Anticipated “Non-Meeting” with Counsel was held regarding Litigation/Mediation – RSA 91-A:2, I (b).

At 6:30 p.m., a Work Session was held regarding the Proposed Charter Amendment Allowing for Election of the Mayor.

I. CALL TO ORDER

At 7:00 p.m., Mayor Lister called the regular City Council meeting to order.

II. ROLL CALL

Present: Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen (via conference call), 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

Craig Mussleman, Selectman from Town of Rye led in the Pledge of Allegiance to the Flag.

PRESENTATIONS

1. Art-Speak Annual State of the Arts Report and Request to Extend the Agreement between the City and Art-Speak – Nancy Carmer, Economic Development Program Manager

Mike Teixeira, President of Art-Speak, provided the Annual State of the Arts Report to the City Council and reviewed the various accomplishments made by Art-Speak over the last year.

Councilor Spear moved to authorize the City Manager to Extend the Agreement from July 1, 2015 through June 30, 2016. Seconded by Assistant Mayor Splaine.

On a unanimous roll call 9-0, voted to authorize the City Manager to Extend the Agreement from July 1, 2015 through June 30, 2016.

2. Update Re: Doble Center, David Moore, Community Development Director

Director Moore provided an update regarding the Doble Center and when we could expect to take over the building. Community Development Director Moore said we plan to take over the building by the end of the year and we are continuing to work with the Subcommittee of the Recreation Board on how the center should be used.

Councilor Kennedy asked where the senior activities will continue since our agreement with the Foundation is coming to an end and we aren't anticipating receiving the building until the end of the year. City Manager Bohenko said we have extended our agreement with the Foundation for an additional 6 months. He also advised the City Council that in October we will no longer receive a donation for the senior activities and will need to pay rent to the Foundation.

3. Final Report of the Self Assessment of Fire Department Operations - Steve Achilles, Fire Chief (**The following link on the City's Website will allow you to view the Report**):http://www.cityofportsmouth.com/fires/PFD_Self_Assessment_FINAL-REPORT.pdf

Fire Chief Achilles provided an update on the Final Report of the Self Assessment of Fire Department Operations. He spoke to the savings that could be achieved if items as suggested were put in place. He reported that staffing has been consistent over the last 17 years and said the department is considering hiring 1 additional firefighter per shift, which will equate to a savings in the first 5 years. Chief Achilles spoke to services being challenged by the aging population and the increase in development at the Pease Tradeport. He indicated that the department continues to explore their involvement with other agencies.

Mayor Lister asked Chief Achilles to provide the City Council with a copy of his Powerpoint Presentation. He also asked Chief Achilles what his top 2 recommendations would be. Chief Achilles said replacement of the ambulance and the hiring of additional firefighters.

Councilor Lown thanked Chief Achilles for the thorough report and said he would like the department to look at call firefighters to help with overtime costs. Chief Achilles said there is an opportunity for call or volunteer in the department but only in a non-emergency role. He stated he would like to look at flex hours to help with the impact of overtime.

Councilor Shaheen asked Chief Achilles if the staffing in the department affects our insurance rating. Chief Achilles said it does and he is asking for our rating to be re-evaluated. Councilor Shaheen asked if the chief had a choice would he agree the hiring of personnel is better for the department. Chief Achilles said he would.

Councilor Thorsen asked if we use overtime as an incentive in hiring firefighters. Chief Achilles said we do not use it as an incentive but we are paying people substantially less coming into the position than surrounding communities such as North Hampton, Rye, etc. Councilor Thorsen said the Chief makes a good point on what the market is and asked if we are really under market.

Councilor Morgan thanked Chief Achilles for the detailed report and for making this an ongoing effort. She asked about the starting salaries in other communities and if that includes benefits. Chief Achilles said he does not know what the benefit packages are in other communities.

Councilor Dwyer asked that the Presentation be attached to the Report. She said the Council committed to adding items to the budget if the Report showed a need, even if it cost more. She said the department should look at what they want to add to the budget and bring that discussion forward at our May 20th meeting.

V. ACCEPTANCE OF MINUTES – MAY 4, 2015 & MAY 11, 2015

Councilor Lown moved to approve and accept the minutes of the May 4, 2015 and May 11, 2015 City Council meetings. Seconded by Councilor Kennedy.

On a unanimous roll call 9-0, voted to approve and accept the minutes of the May 4, 2015 and May 11, 2015 City Council meetings.

VI. PUBLIC COMMENT SESSION

Merle White, Anchor Taxi, spoke to the issues facing Kansas and Texas due to UBER. He said it is time for UBER to provide what is required under our ordinances.

Roy Helse would like to see a sidewalk continuously from Five Guys to Peverly Hill Road and also near the high school. He said people should not be walking in the roadways.

James Murphy asked the City Council not to take action this evening regarding the Albacore Parking Lot Agreement. He said he is an abutter and this will cause issues for the neighborhood with noise and lighting. He stated he was not aware of this item until he read the article in the newspaper this morning.

Mark Brighton, Association of Portsmouth Taxpayers spoke opposed to the budget increasing to over \$100 million. He said the taxpayers need a break from increasing taxes. He spoke to the tax rate in Derry, Salem and Dover and that when you break down the residential costs we are the second highest. Mr. Brighton said the concern is the total tax burden to taxpayers.

John Prochilo, NE Rehabilitation Hospital, expressed concern regarding the possible expansion of the wastewater treatment plant at the Tradeport. He said if the plant is expanded it would directly affect the patients at the facility. He addressed when looking for the location of this facility it was important to create a healing environment, with light and fresh air. He said the outdoor environment is used for the patients. He asked the City Council to support Option 1 that the treatment plant remain at Peirce Island.

Julia Lison, NE Rehabilitation Hospital Physical Therapist, said she agrees with comments made by Mr. Prochilo. She said the outdoor environment is used for physical therapy and helping patients to get back to the community. She said the outdoor setting is very important to the health and rehab of their patients.

VII. PUBLIC HEARING

- A. ORDINANCE THE ZONING MAP BY REZONING THE FOLLOWING LOTS FROM INDUSTRIAL (I), OFFICE RESEARCH (OR) OR MUNICIPAL (M) TO GATEWAY (GW):
- ASSESSORS MAP 163, LOTS 33, 34 AND 37;
 - ASSESSORS MAP 165, LOTS 1, 2 AND 14;
 - ASSESSORS MAP 172, LOTS 1 AND 2;
 - ASSESSORS MAP 173, LOTS 2 AND 10;

AND INCLUDING CATE STREET BETWEEN HODGSON'S BROOK AND BARTLETT STREET; AND AMENDING THE ZONING ORDINANCE AS FOLLOWS:

- ARTICLE 7, SECTION 10.730 – GATEWAY PLANNED DEVELOPMENT:
 - AMEND SECTION 10.734.20 – LOT REQUIREMENTS, BY ESTABLISHING FRONT YARD STANDARDS RELATIVE TO STREETS OTHER THAN LAFAYETTE ROAD;
 - AMEND SECTION 10.734.33 BY MODIFYING THE MAXIMUM BUILDING HEIGHT STANDARDS;
 - INSERT A NEW SECTION 10.734.40 – WORKFORCE HOUSING INCENTIVES, TO ALLOW INCREASED BUILDING HEIGHT AND BUILDING LENGTH, AND TO ALLOW PARKING TO BE LOCATED IN A REQUIRED FRONT YARD OR BETWEEN A PRINCIPAL BUILDING AND A STREET, FOR A GATEWAY PLANNED DEVELOPMENT THAT CONTAINS 10% OR GREATER WORKFORCE HOUSING UNITS.
- ARTICLE 15 – DEFINITIONS:
 - AMEND SECTION 10.1530 – TERMS OF GENERAL APPLICABILITY, BY INSERTING DEFINITIONS OF “WORKFORCE HOUSING” AND “WORKFORCE HOUSING UNIT.”

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

Attorney Bernard Pelech said he is representing Portsmouth Land Acquisitions LLC. He said at the last Planning Board meeting they unanimously voted to endorse the citywide zoning. He said the Planning Board feels there needs to be some changes with work force housing and instructed the Planning Department to make some incentive to the work force housing. He said the CD-4 District did not work in the area and we can now come up with work force housing incentives.

City Manager Bohenko said the staff is requesting that the public hearing be kept open.

Mayor Lister did not close the public hearing on this matter.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Ordinance the Zoning Map by rezoning the following lots from Industrial (I), Office Research (OR) or Municipal (M) to Gateway (GW):
- Assessors Map 163, Lots 33, 34 and 37;
 - Assessors Map 165, Lots 1, 2 and 14;
 - Assessors Map 172, Lots 1 and 2;
 - Assessors Map 173, Lots 2 and 10;

and including Cate Street between Hodgson's Brook and Bartlett Street; and amending the Zoning Ordinance as follows:

- Article 7, Section 10.730 – Gateway Planned Development:
 - Amend Section 10.734.20 – Lot Requirements, by establishing front yard standards relative to streets other than Lafayette Road;
 - Amend Section 10.734.33 by modifying the maximum building height standards;

- Insert a new Section 10.734.40 – Workforce Housing Incentives, to allow increased building height and building length, and to allow parking to be located in a required front yard or between a principal building and a street, for a Gateway Planned Development that contains 10% or greater workforce housing units.
- Article 15 – Definitions:
 - Amend Section 10.1530 – Terms of General Applicability, by inserting definitions of “workforce housing” and “workforce housing unit.”

Councilor Spear moved to continue the public hearing and postpone the vote on second reading to the City Council meeting on June 1, 2015 until after the Planning Board has worked on the Workforce Housing portion of the Ordinance. Seconded by Councilor Kennedy.

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

X. CONSENT AGENDA

- A. Acceptance of Police Department Grants:
 - NH Highway Safety for DWI/DUI Patrol Grant - \$8,580.00
 - NH Highway Safety for Sobriety Checkpoints Grant - \$6,864.00
 - NH Highway Safety for Pedestrian Patrols Grant - \$6,292.00
 - NH Highway Safety for Enforcement Patrols Grant - \$6,292.00
 - NH Highway Safety to Address Red Light Running Grant - \$6,292.00

(Anticipated Action – move to approve and accept the grants to the Portsmouth Police Department)
- B. Request for License from Brendin McCord, owners of Bennett's Store for property located at 41 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 Brendin McCord, owners of Bennett's Store for a projecting sign at property located at 41 Congress 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***

- C. Request for License from Shore Gregory, owners of ROW 34 for property located at 5 Portwalk Place for 1 projecting sign on new bracket on Hanover Street at corner of Portwalk Place (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Shore Gregory, owners of ROW 34 for 1 projecting sign at property located at 5 Portwalk Place at corner of Hanover 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 Lown moved to adopt the Consent Agenda. Seconded by Councilor Spear.

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

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from John Prochilo, CEO of Northeast Rehabilitation Hospital regarding concerns with Wastewater Treatment Facility "Option 2"

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

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

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Request for Approval of Parking Lot Agreement Re: Albacore Lot

City Manager Bohenko spoke to the Parking Agreement at the Albacore. He stated the agreement is for 2 years for an annual fee of \$5,500.00 to be paid in bi-annual payments. He also stated the City will be surfacing and striping the portion of the parking area designed for this use which will be funded through the parking and expenditures fund.

City Manager Bohenko said the City will also install a bus shelter and signage. He reported that the other lot we use with the Community Church has the same type of neighborhood and there have not been any complaints. He stated that we would closely monitor the area and make sure there are no issues. He said there is security we would be establishing.

Councilor Lown asked City Manager Bohenko how frequently the Community Church lot fills to capacity. City Manager said on holidays and events. Councilor Lown said he is not sure the additionally spaces are needed at this time. City Manager Bohenko said he feels it is important to utilize as many satellite bases as we can. He said we are looking at a service to work with the hospitality industry. He said there is a service out of Durham with an application which is a shuttle, we are exploring this and the lot could be where we house such activity.

Councilor Dwyer said this is close to downtown and would rather use it for overflow parking. She is not concerned with the drop off time. She said if people can see where they are going, it seems like less of a distance to them.

City Manager Bohenko said based on the concerns he would withdraw this item from the agenda at this time.

2. Peirce Island Wastewater Treatment Facility Recommendation

Terry Desmarais said the staff and consultant have reviewed the waste water treatment facility at Pease Tradeport. He said we could continue taking the current path at Peirce Island or second option at the Pease location and build a larger facility. Discussion continued on the cost components looking at the treatment. He reported that Pease has many unknowns and at Peirce Island we have completed 75% of the design. He said Peirce Island is less expensive and the staff is recommending moving forward with the Peirce Island upgrade and asked the City Council reaffirm their vote of April 8, 2013.

Councilor Lown thanked City Engineer Desmarais for the report. He said that this is a big issue and we are still free to look at regionalization with Peirce Island.

Councilor Kennedy said she contacted many people in the EPA and DES. She said on September 29, 2014 staff came forward and provided a 10 page document why the Council needed to look at Pease and gave strong rational to look at an alternative. She spoke to the presentation held 2 weeks ago that provided 2 options with Peirce Island, the uncertainty with combine overflow and construct cost. She said Peirce Island is one of the few places people can access the water. She is concerned that we stay within the fence line with the construction at Peirce Island.

City Manager Bohenko said we are asking the City Council to reaffirm the vote. He said Peirce Island is 75% designed and at a different level than Pease. He said there would be significant disruptions to the downtown going out to Pease.

Deputy City Attorney Woodland spoke on the eel grass and we have worked closely with other communities to do a peer review of it. She said the DES withdrew some of the numeric criteria and the City contends that there is not a demonstrated connection with the eelgrass loss from a scientific need and there is not a need to do effluent removal.

Councilor Spear moved to reaffirm the City Council's vote of April 8, 2013 to move forward with the Peirce Island Wastewater Treatment Facility Upgrade. Seconded by Councilor Lown.

Councilor Spear said the City Council voted in 2013 unanimously and Councilor Kennedy made the motion. He said we have been under pressure to upgrade the facility and move forward. He said we could move forward with the Pease option but he feels it carries more risk and the cost is substantially more. He said he feels comfortable making this decision and Peirce Island is the way to go.

Councilor Shaheen said she will agree with the motion. She said she does not feel Pease is feasible and has a longer term regulatory risk.

Councilor Lown said anyone that would support Pease would have to justify to the taxpayers the additional price. He said it is clear to him that Peirce Island is the way to go.

Assistant Mayor Splaine said there are problems with both locations and he is not ready to vote in favor of Option 1 or 2. He said we need to make sure our environment is protected because Peirce Island is a treasure.

Councilor Thorsen said he thought Pease was a great idea and it does have additional risk and is more costly but still likes Pease as a destination spot and maybe we do not have the right solution that would work at Pease. He is concerned with the motion to reaffirm a vote that was previously made. If we our voting for Option #1 or #2 he would go with Peirce Island over Pease because of the information on costs and discrepancies.

Councilor Morgan said she is torn on the issue. She said we have invested money at Peirce Island and we are aware of the known costs at Peirce Island. She does not want to see anything at Peirce Island and would rather go to Pease but she is looking at the money spent and right now she is inclined to vote in favor of the motion because we already made the investment at Peirce Island.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Mayor Lister said he is concerned with the infrastructure and feels we need to move forward with Peirce Island. He said he supports the staff and their recommendation.

Assistant Mayor Splaine returned the gavel to Mayor Lister.

On a roll call vote 7-2, motion passed. Councilors Shaheen, Lown, Dwyer, Morgan, Spear, Thorsen and Mayor Lister voted in favor. Assistant Mayor Splaine and Councilor Kennedy voted opposed.

At 9:55 p.m., Mayor Lister declared a brief recess.

Councilor Shaheen left the conference call and no longer participated in the meeting from this point forward.

At 10:05 p.m., Mayor Lister called the meeting back to order.

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

Councilor Dwyer reviewed the various events taking place for the African Burying Ground. She said the original petition of 1777 would be allowed to travel to Portsmouth and would be on display at the Discover Center from 8:30 a.m. to 5:00 p.m. on Wednesday, May 20, 2015.

Assistant Mayor Splaine spoke to the Seacoast Outright Pride Event and stated there maybe 100 people from throughout the Seacoast and Maine participating. City Manager Bohenko said the walks will be on sidewalks.

Councilor Morgan asked about the short term rentals memorandum under the City Manager's Informational Items. She asked if this is the answer to AIRBNB activities. She said she has reservations and does not feel it addressed everything. She said she does not see a problem allowing our home residents to use their home for 30 days of the year. She would like regulations to speak to owners living there and that the Planning Board consider the points she has expressed.

B. MAYOR LISTER

1. Appointments to be Voted:

Councilor Spear moved to appoint Matthew Cardin to the Conservation Commission as a Regular member until April 1, 2018; appointment of Kimberly Meuse to the Conservation Commission as a Regular member until April 1, 2018; appointment of Kate Zamarchi to the Conservation Commission as a Regular member until April 1, 2017. Ms Zamarchi is filling the unexpired term of Elissa Stone; appointment of Adrienne Harrison to the Conservation Commission as an Alternate until April 1, 2017. Ms. Harrison is filling the unexpired term of Matthew Cardin who is now a Regular member of the Commission. The appointment of Samantha Wright to the Conservation Commission as an Alternate until April 1, 2016. Ms. Wright is filling the unexpired term of Kimberly Meuse who is now a Regular member of the Commission; reappointment Carl Diemer to the Recreation Board until April 1, 2018, and appointment of Patrick Moretti to the Zoning Board of Adjustment as a Regular member until December 1, 2019. Mr. Moretti is filling the expired term of Suzanne Chamberlin. Seconded by Councilor Lown. Councilor Morgan voted opposed to the appointment of Mr. Moretti as a regular member to the Zoning Board of Adjustment.

C. ASSISTANT MAYOR SPLAINE

1. Arranging an Interactive Work Session for PS21 Topics on the Search for Walkability, On-Street Parking, and Street Flow

Assistant Mayor Splaine said he would like an interactive Work Session with PS21 on the topic of walkability to be held sometime in September or October. He said no motion is needed but would like the Mayor to look at this for a Work Session in the fall.

Councilor Dwyer said she feels that is a good idea and would like to have the Planning Board and Parking & Traffic Safety Committee as part of the Work Session with the City Council.

D. COUNCILOR KENNEDY

1. Parking Update: Transportation Patterns and On Street Parking Increased in Accordance with our Visiting Parking Experts

Councilor Kennedy said she is looking for an update on where we are at with this matter. She also asked for a report back on when the parking rate increases will be coming forward for the City Council to take action on.

City Manager Bohenko said the parking fees will be looked at by the Fee Committee on May 27th and he would provide a report back to the City Council after that time.

XIII. MISCELLANEOUS/UNFINISHED BUISNESS

Councilor Kennedy said on May 27th the Historic District Commission will be having a site walk of the Harborcorp Project and invited all to attend.

Councilor Spear spoke regarding the Open House of the Portsmouth Middle School and thanked all those that put a tremendous amount of time in the project.

XIV. ADJOURNMENT

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



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