

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, JANUARY 11, 2016

PORTSMOUTH, NH
TIME: 600PM [or thereafter]

At 6:00 p.m. a Work Session was held regarding the FY 17 Budget Process and Proposed Budget Guidelines.

I. CALL TO ORDER

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

II. ROLL CALL

Present: Mayor Blalock, Assistant Mayor Splaine, Councilors Perkins, Dwyer, Lown, Pearson, Spear, Cyr and Denton

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

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

PRESENTATION

1. Update Re: 165 Deer Street (New Municipal Garage)

David Allen, Deputy City Manager, provided the project background and overview of the site selection, preliminary level planning and design, the pro-forma and current project status. He spoke to the North End Vision Plan of liner buildings, civic space and micro-apartments. He addressed enhanced walkability and bicycle elements as:

- Multi-Storied Liner Buildings to Screen Parking Garage
- Wide Sidewalks & Street Furniture
- Bicycle Accommodation & Added Surface Parking
- Additional Active Ground-Floor Uses Areas
- Added Active and Passive Civic Spaces

Deputy City Manager Allen provided the current Project Status and outlined the following:

- Bonding \$23.2 million authorized May 5, 2015
- Purchase & Sales Agreement (on-going to City Council January 25, 2016)
- Post Closure Obligations Agreement
- Selected Project Design Team Walker is working on contract scope
- Site evaluation of environmental and site layout is being reviewed
- Design & Permitting (February 2016 – October 2016)
- Building Construction (2016 - 2018)

City Manager Bohenko spoke regarding bringing forward the purchase and sales agreement at the January 25, 2016 City Council meeting and how he would like to have a work session prior to the meeting to review the agreement and have discussion.

Councilor Pearson asked what would be the square foot of a micro apartment? City Manager Bohenko said 400 square feet.

Mayor Blalock said there is a potential for workforce housing with the micro apartments. City Manager Bohenko said we are looking at the possibility of the Portsmouth Housing Authority managing the apartments.

V. ACCEPTANCE OF MINUTES – DECEMBER 21, 2015 AND JANUARY 4, 2016

Councilor Lown moved to approve and accept the minutes of the December 21, 2015 and January 4, 2016 City Council meetings. Seconded by Councilor Spear and voted.

VI. PUBLIC COMMENT SESSION

Brendan Dubois, Exeter, NH, spoke on installing David Mara as the Interim Police Chief and the generous employment package being provided to him. He said that RSA 91-A was violated by Police Commissioners Cavanaugh and Onosko during the discussion of David Mara for Interim Chief. He urged the City Council to review the process used by the Police Commission for the working agreement.

John Palreiro said he was out in full force New Year's Eve because his clients requested their taxi services. He reported to the Council the 9.9% price surcharge by UBER and the illegal operation of another application company.

Harold Whitehouse spoke regarding the elderly exemption and how some people are just on this side of not qualifying by just a few hundred dollars. He asked the City Council to review increasing the income limit for the exemptions.

Arthur Clough – welcomed Mayor Blalock and City Council to their new positions. He spoke to having Chief Mara as the Interim Police Chief and the feeling of good oversight of the department.

Christopher David, Dover, NH, said he is launching Arcade Taxi and provided services on New Year's Eve without accepting fees but the drivers were given tips. He said his company did not finish working until 2:00 a.m. serving 30 people. He asked the City Council to considering deregulating the taxi's as was done in Sarasota, Florida.

VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to Fire Department Re: Kearsarge Restoration Project

Councilor Spear moved to accept and approve the donation from Newburyport Bank for the Kearsarge restoration project, as presented. Seconded by Councilor Perkins and voted.

- B. Approval and Acceptance of Donation Re: Bench

Councilor Spear moved to approve and accept the donation for a bench, as presented. Seconded by Councilor Lown and voted.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 4, Section 10.440 Table of Uses – Residential, Mixed Residential and Industrial Districts – Use 170 Manufactured housing park, Supplemental Regulations 10.814,

Amend Chapter 10 – Zoning Ordinance, Article 5, Section 10.521 – Table of Dimensional Standards – Residential and Mixed Residential Districts as follows:
Minimum Yard Dimension, Maximum Structure Dimensions,

Amend Chapter 10 – Zoning Ordinance, Article 8 – Section 10.810 – Residential and Institutional Residence or Care Uses by adding the following – 10.814 – Manufactured Housing Park Dimensional Standards,

Amend Chapter 13 – Mobile Home Ordinance by deleting it in its entirety

- B. First reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 10, Section 10.1016 – Permitted Uses by addition Uses, activities and alterations are permitted in wetlands and wetlands buffers,

Amend Article 10, Section 10.1017 – Conditional Uses by adding the following – Wetland Protection Plan,

Amend Article 15, Section 10.1530 – Terms of General Applicability, by inserting the following new terms and definitions – Impervious Surface

Jessa Berna of the Planning Department provided a presentation on this matter. She provided background information and an overview of the amendments that were drafted with Hillcrest Estates in mind, which is where the district is permitted. She spoke to the definitions of a mobile home and the conflicting terms that currently exist within the ordinance. She stated that the manufactured housing units in Hillcrest never received site review approval and the proposed ordinance looks more holistically at the sites. She said the objectives are to have an approved site plan and dimensional standards and process to address wetland impact sites.

Ms. Berna reviewed some of the requirements such as a minimum of 20 feet between units. She also reported under the proposed amendments that Chapter 13 the Mobile Home Ordinance will be deleted in its entirety.

Ms. Berna also spoke regarding the second ordinance which provides long term overall Wetlands Protection Plan. She said the Site Review Plan will be provided administratively every time there is a replacement unit.

Councilor Spear asked if the City Council could change the zoning map to include Oriental Gardens.

City Manager Bohenko recommended moving forward this evening on the ordinance.

Councilor Denton asked about deleting Chapter 13 in its entirety and if it is eliminated entirely would we be able to have it exist in other parts of the City. He also asked if the staff has decided if there is enough remaining land to do the necessary mitigation. Jessa said there is enough land for the new sites.

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Amend Chapter 13 – Mobile Home Ordinance by deleting it in its entirety

Councilor Spear moved to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the January 25, 2016 City Council meeting, as presented. Seconded by Councilor Lown and voted.

- B. First reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 10, Section 10.1016 – Permitted Uses by addition Uses, activities and alterations are permitted in wetlands and wetlands buffers,

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Councilor Lown moved to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the January 25, 2016 City Council meeting, as presented. Seconded by Councilor Spear and voted.

- C. First reading of Ordinance amending Chapter 10 – Zoning Ordinance Delete the existing Article 5A – Character Districts in its entirety and insert in its place the new Article 5A – Character Districts dated January 11, 2016,

Amend Articles 4, 5, 11, 12 & 15 of the Zoning Ordinance as set forth in the document titled “Conforming Amendments to Zoning Ordinance” January 11, 2016,

Amend the Zoning Map as set forth in the following maps dated January 11, 2016:

- (a) Map 10.5A21A – Character Districts and Civic Districts;
- (b) Map 10.5A21B – Building Height Standards;
- (c) Map 10.5A21C – Special Requirements for Façade Types, Front Lot Line Buildout & Uses,

Amend the Zoning Map by changing the zoning designation of 52 parcels as set forth in the document titled “Proposed Additional West End Zoning Changes” dated January 11, 2016 and as shown on the map titled “Additional West End Zoning Changes – First Reading – January 11, 2016”

Rick Taintor, Planning Director provided a presentation on this matter and provided an overview of the proposed changes. He spoke to the sign charrette that took place in June, 2013 and of the changes made to Article 5A. He stated that the recommendation is to bring this back for a public hearing and second reading at the March 21, 2016 City Council meeting with the adoption to take place in April. Planning Director Taintor addressed the vision plan for the Islington Street Corridor and changes to be made to the ordinance and zoning map. He stated many of the changes are housekeeping and clerical in nature but there are 10 substantive changes. He also addressed conforming amendments and 2 changes to the zoning map regulating plan and that they will notify all individual owners because there are less than 100 parcels as required by State law. In addition, he stated that the conforming amendments will delete the CBA & CBB districts and add CD4-W and Civic districts.

Councilor Dwyer asked about how you prevent misinformation being stated by the Portsmouth Listen Study Circles because of the technical nature of the amendments. Planning Director Taintor said Portsmouth Listens will receive a presentation prior to the 2 weeks of Study Circles followed by 2 weeks of questions in separate meetings.

Councilor Spear said he has similar concerns as outlined by Councilor Dwyer. He asked with new zoning will neighborhoods in the district be more conforming or less. Planning Director Taintor said along the corridor will be more conforming for CD4-W district but would tighten up on parking locations and provide incentive to building height increases. Councilor Spear said parking runs through much of the zoning, does the Planning Department want to look at changing parking requirements to allow for more affordability and more green space.

Planning Director Taintor spoke to another set of changes that will be coming before the City Council called the Omnibus Zoning Ordinance that will provide article by article changes.

Councilor Perkins commended the changes for the overlay districts. She said that these will be an incentive for workforce housing.

Councilor Spear moved to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the March 21, 2016 City Council meeting, as presented and refer to the Planning Board. Seconded by Councilor Lown and voted.

IX. CONSENT AGENDA

- A. Letter from Ken La Valley, American Foundation for Suicide Prevention requesting permission to hold Out of the Darkness Walk on Saturday, September 17, 2016 at 10:00 a.m. – Noon (***Anticipated action – move to refer to the City Manager with power***)
- B. Request for License to install Projecting Sign:
- Brie DeLise owner of Prelude, for property located at 65 Market Street (***Anticipated action – move to approve the aforementioned Projecting Sign Licenses as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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 and voted.

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from John Chagnon, Ambit Engineering, Inc., Request for Licenses for Site Redevelopment Property located at 40 Bridge Street

Councilor Lown moved to refer to the Planning Board for report back. Seconded by Councilor Spear and voted.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Elderly and Disabled Exemptions

City Manager Bohenko explained how the exemptions are adjusted through the CPI. He stated he would like to bring the asset level limit up and to take the single amount and married amount of income up as well, keeping us in-line with other communities.

He said first reading will be brought back for the January 25, 2016 City Council meeting with a public hearing and adoption at the February 16, 2016 City Council meeting.

Councilor Lown moved to authorize the City Manager to proceed with the proposed increase of both the income and asset limits for the elderly and disabled exemptions, and further, move to authorize the City Manager to bring the Resolutions back for first reading at the January 25, 2016 City Council meeting, as presented. Seconded by Councilor Spear.

Councilor Dwyer said she agrees with City Manager Bohenko. She stated she would like to know why we exempt so much less when someone is 74 years of age versus 80 years of age. She said the difference has been \$.10 on the tax rate. City Manager Bohenko said it is statutory for the age brackets. Councilor Dwyer said that this is something we need to look into as a person has the same income at age 74 or at age 80.

Councilor Lown said that is an interesting point and it might be a hold over from when life expectancy was lower.

Motion passed.

2. Adoption of Resolution Re: HealthTrust, Inc., Application and Membership Agreement

City Manager Bohenko said the City Council is required to act on the Membership Agreement and asked for the approval of the Resolution, as presented.

Councilor Spear moved to adopt the HealthTrust, Inc. Application and Membership Agreement, and further, authorize and direct the City Manager to execute and deliver to HealthTrust, on behalf of the City of Portsmouth, the "Application and Membership Agreement", as presented. Seconded by Councilor Lown and voted.

3. Sidewalk Permit Request Re: 195 State Street

City Manager Bohenko explained the company was granted a sidewalk license encumbrance and the work is continuing, therefore they required an extension to the agreement.

Councilor Spear moved to authorize the City Manager to enter into a License with CCI Inc. to facilitate the completion of renovation activities at 195 State Street. Seconded by Councilor Lown.

Councilor Spear asked if there was a way to annually empower the City Manager to do these encumbrances. City Manager Bohenko said the Council could place these on the Consent Agenda.

The City Council agreed that City Manager Bohenko place Sidewalk Permit Requests on the Consent Agenda in the future.

Motion passed.

4. Interim Police Chief Agreement

City Manager Bohenko said the agreement is before the City Council and was drafted by the City Negotiator and action is required on this matter. He said perhaps the City Council would like the Police Commission to come forward to speak on the agreement.

Councilor Lown moved to suspend the rules in order to allow the Police Commission to speak relative to the Interim Police Chief Agreement. Seconded by Councilor Pearson and voted.

Police Commissioner Onosko said the contract will be for 6 months and how fortunate we are to have Chief Mara here in the City of Portsmouth. He spoke to the 1 hour video on "Meet the Chief" which is available on the website. Commissioner Onosko said we are in great hands with Chief Mara.

Councilor Lown thanked the Commission for their work. He said he met Chief Mara and will vote in favor of the contract. Councilor Lown asked if we found someone in 2 to 3 months could we bring the person forward in 30 days advance written notice. The contract allows for the Chief to leave with 30 days advance written notice but he wants to see that be reciprocal. City Attorney Sullivan said that could be changed.

Councilor Dwyer said that this contract is much higher than what was budgeted.

Councilor Pearson thanked the Police Commission and asked if there is a contingency plan in place to extend the contract if we can't find a new chief. She said the goal is to get a new chief and move the department forward.

Assistant Mayor Splaine moved the approval of the Interim Police Chief Agreement. Seconded Councilor Lown.

Assistant Mayor Splaine said it is the Council's obligation to support the new Police Commission and the contract was prepared openly and transparently, it is time to move forward.

Councilor Lown said he is not totally pleased with how this came about. He said he wants to help the Police Department move forward and he would support the contract for that reason.

Councilor Denton said the City Council should vote on the contract to show you support the new Chief. He said the Police Commission was not required to come before us, however they did.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he wished things did not happen in the past. He said he wants the City to move forward and look forward to having the Chief move ahead.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Dwyer said she would vote against the contract but it is not in relation to Chief Mara. She said she feels we should be able to make changes to the agreement and she does not support the process followed.

Councilor Spear said he agrees with comments made by Councilor Dwyer.

On a roll call 7-2, motion passed. Assistant Mayor Splaine, Councilors Perkins, Lown, Pearson, Cyr, Denton and Mayor Blalock voted in favor. Councilors Dwyer and Spear voted opposed.

5. Polling Hours

City Clerk Barnaby explained the number of details to be met in setting up the wards prior to opening the polls and to open an hour early would require the day to begin at 4:00 a.m. to be ready and opened by 7:00 a.m. She also spoke to the small pool of available workers to be present at the polls. She addressed the high degree of responsibility and knowledge required and how the average day can be any where from 18 to 22 hours for many of the workers, which is an excessively long day. City Clerk Barnaby also noted that many communities that open at 7:00 a.m. have one polling location which requires fewer workers, less set up, etc. She also spoke regarding the delay in results that would occur from extending the polling hours by an additional hour. She also indicated that she recommends the polls to be open 8am – 8pm at a Presidential General Election.

City Manager Bohenko stated we are looking at having City staff assist at the polling locations.

Assistant Mayor Splaine said he supports City Clerk Barnaby.

Assistant Mayor Splaine moved to set the polling hours from 8:00 a.m. to 7:00 p.m. for the Presidential Primary Election on February 9, 2016. Seconded by Councilor Lown and voted.

City Manager Bohenko spoke on HB697 regarding legislation for UBER and how there would not be any local control under this piece of legislation. He said he would like to communicate with legislatures to have some local control to remain in place.

Councilor Dwyer moved to provide written testimony that the Committee takes into account the ability to have local oversight. Seconded by Assistant Mayor Splaine and voted.

B. MAYOR BLALOCK

1. Resignation of Rebecca Perkins from the Portsmouth Housing Authority

Councilor Spear moved to accept with regret the resignation of Rebecca Perkins with a letter of thanks for her service to the City. Seconded by Councilor Pearson and voted.

2. Approve City Council Rules and Order

Mayor Blalock withdrew Amendment to Rule 30 – Ordinance Procedure.

Rule 37 – Hour City Council Meetings to Conclude – At 10:30 p.m. all items under City Manager's name would become Consent Agenda items.

Create new City Council Rule – Each City Councilor may have 1 agenda item under their name and should not include informational items or reoccurring items.

Rule 4 review the language which states “shall be entitled.”

City Attorney Sullivan stated he would rewrite the rules and bring a new set of rules for the January 25, 2016 City Council meeting.

3. Ratify City Council Policies and Procedures

Councilor Spear moved to ratify the City Council Policies and Procedures. Seconded by Councilor Dwyer.

Assistant Mayor Splaine said he supports the current policies and procedures. He would bring back setting a policy to have the City Council have a roll call vote before entering into Non-Meeting with Counsel. He said this would provide more transparency.

Motion passed.

4. Blue Ribbon Committee for Prescott Park Master Plan

Mayor Blalock announced he appointed a Mayor's Blue Ribbon Committee for the Master Plan of Prescott Park and the members are: Councilor M. Christine Dwyer, Chair; Councilor Nancy Pearson, Stefany Shaheen, Phyllis Eldridge, Trustees of Trust Funds; Thomas Watson, Trustees of Trust Funds; Dana Levenson, Trustees of Trust Funds.

Assistant Mayor Splaine asked if the meetings would be open to the public. City Manager Bohenko said yes.

5. Code of Ethics Lot Drawing for City Council Representative

Assistant Mayor Splaine was drawn to serve as the City Council Representative to the Code of Ethics Board.

6. Information Only City Council Schedule 2016

No action required.

7. Information Only Board & Commission Assignments for City Council

No action required.

C. COUNCILOR LOWN

1. Update Regarding Financial Disclosure Form

Councilor Lown said on the campaign trail he promised he would bring the issue up as to whether land use members should sign the financial disclosure form and 7 of the 8 members expressed no interest in signing the form. He said there is a conflict of interest ordinance that addresses this and the City Council Rules and City Charter. He said the information on the form is minor in nature.

Councilor Dwyer said she agrees with part of the sentiment. She said conflict of interest is the issue for us and land use boards. She said there are good processes for non-profits that have conflict of interest forms.

Assistant Mayor Splaine said he supports disclosure by land use boards and feels there is something as important which is ethics training. He said the land use boards, School Board, Police and Fire Commissions should have to take this training. He also stated that the new members of the City Council should complete the financial disclosure forms now instead of waiting until June as the Ordinance requires.

Councilor Pearson said she serves on a non-profit and the conflict of interest forms are helpful for board members.

D. COUNCILOR SPEAR

1. Affordable Housing at the Parrott Avenue Lot

Councilor Spear moved to request the City Manager evaluate the feasibility of siting micro apartments for workforce housing at the Parrott Avenue lot. Seconded by Councilor Denton.

Councilor Spear said that the City Council strongly agrees with workforce housing and has tried hard to bring that to the City. He said maybe what we need is some catalyst to move forward and create workforce housing. He said we are not voting to put workforce housing in place this evening we are discussing the matter and having the City Manager look at the feasibility of it at the Parrott Avenue lot.

Assistant Mayor Splaine said he would not support taking away parking at the Parrott Avenue lot. He supported micro-housing two years ago.

Councilor Dwyer said she is concerned that we need the new parking garage before taking away parking. She hopes we do not ask the City staff to do things that we are not ready to move forward with because there are opportunity costs that need to be considered. She said we have been on a number of wild goose chases and we need to thoroughly look at things before moving forward.

Councilor Cyr said in the spirit of beginning thoughts we are limiting ourselves with just considering Parrott Avenue. He said these are good intentions to solve a bigger problem.

Councilor Pearson said she does not feel that they are mutual exclusive and that workforce housing and micro housing can work together.

Councilor Perkins said she agrees with beginning ideas and we would not see workforce housing until we endorse the idea. She said government needs to get smart on new ideas.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he would fight hard to have staff not do unnecessary work and report backs. He feels it is important to start ideas using Parrott Avenue as an idea template. He hopes the feasibility is a limited idea to just that and does not create unnecessary work.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Motion passed. Councilor Dwyer voted opposed.

E. COUNCILOR DENTON

1. City Council Rules and Orders

Councilor Denton said he would like the City Manager and City Attorney to review these changes and report back for discussion. He said many cities use sub-committees which allow the City Council to make decisions earlier.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock asked what cities do this. Councilor Denton said the City of Rochester. Mayor Blalock said is the purpose to add more meetings. Councilor Denton said it would require more meetings for the members that serve on sub-committees.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Spear said instead of the term sub-committees, we have advisory committees and current boards and commissions. He said the board and commissions have public hearings and much time is set aside for public discussion. He said this would mean no public hearings at the City Council level and the addition of other committees. He said he likes having public hearings at the City Council meetings. He said we receive report backs from City staff and do much of this but need we need to give respect to our current board and commissions.

Assistant Mayor Splaine said he likes the creativity of this and said this is much like the Legislative Committee. He said we should look at public hearings as an opportunity to learn and hear ideas.

Councilor Dwyer said she agrees to find a way to hear more from our committees. She said we need to do things that are consistent with our form of government. She said no one does it quite this way with a 3 person Sub-committee. She feels this would be a step back and residents would feel they are losing something.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he feels that this is a solution looking for a problem and there is no problem with our current way of passing ordinances. He does not see the advantage of doing this. He said we should wait a year to see how the City Council is working before bringing changes like this forward. He said residents are used to coming here and speaking at public hearings. Mayor Blalock said the meeting would need to be structured differently and he would not support this.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Spear said instead of having staff report back, bring it forward at the City Council Retreat. Councilor Denton said he is comfortable with that suggestion.

Councilor Denton move to refer this matter to the March 12, 2016 City Council Retreat for review. Seconded by Assistant Mayor Splaine and voted.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

XIII. ADJOURNMENT

At 9:55 p.m., Councilor Lown moved to adjourn. Seconded by Councilor Spear and voted.



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