

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, MARCH 14, 2016

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

Recessed from the March 7, 2016 City Council meeting

Present: Mayor Blalock, Assistant Mayor Splaine, Councilors Perkins, Dwyer, Lown, Pearson, Spear (via conference call); Cyr and Denton

Mayor Blalock declared the meeting out of recess.

Councilor Lown moved to suspend the rules in order to take up Item IX A. – Adoption of Resolution authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Seventy Five Million Dollars (\$75,000,000.00) for Costs related for the Construction of the Peirce Island Wastewater Treatment Facility. Seconded by Councilor Pearson.

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

IX. A. Adoption of Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Seventy Five Million Dollars (\$75,000,000.00) for Costs related for the Construction of the Peirce Island Wastewater Treatment Facility

Councilor Lown moved to adopt a Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Seventy Five Million Dollars (\$75,000,000.00) for Costs related for the Construction of the Peirce Island Wastewater Treatment Facility. Seconded by Councilor Pearson.

Assistant Mayor Splaine thanked the staff for answering the questions proposed regarding the Wastewater Treatment Facility.

Assistant Mayor Splaine moved to amend and remove the word Peirce Island from the Resolution. Seconded by Councilor Denton.

Assistant Mayor Splaine said we still have much to learn on this issue and we need to open the discussion a little longer over the next several weeks. He said there has been no discussion of Pease versus Peirce Island for another public hearing if the amendment was to pass.

Councilor Denton asked for an explanation of why the location could not be removed from the bond.

City Attorney Sullivan said the SRF is contingent upon building at the Peirce Island site as well as the City Consent Degree obligations do not allow for changes in the plan at this point there simply is not time.

Councilor Dwyer said she would vote no at this point and would like to have another motion to have discussion on the transportation options.

On a roll call vote 8-1, motion to amend ***failed*** to pass. Councilors Perkins, Dwyer, Lown, Pearson, Spear, Cyr, Denton and Mayor Blalock voted in favor. Assistant Mayor Splaine voted opposed.

Councilor Lown said that time is of the essence and we need to move now on this matter. He further stated that Pease is not a viable option.

Councilor Dwyer said some people think the plant will cover the island and that is a question that needs to be explained. She asked what is the process and how do we know it can stay in the foot print.

Water/Sewer Engineer Desmarais spoke to the BAF technology that will be used for the plant and the design of the plant keeps it within the fence line.

Councilor Pearson said there is a concern on the increase in houses and hotels and how that would effect the plant and if it could handle the additional capacity. Engineer Desmarais said the plant will handle on average 6.1 million gallons per day.

Assistant Mayor Splaine spoke to the future and concern with what additional requirements may come down from the EPA in 20-50 years. Engineer Desmarais said we can't predict the future but we have the option to reduce with sewer separation and that would be dealt with in the future. Assistant Mayor Splaine said can we agree that people have a point with the need to build out would be required in the future and there is a need for a discussion of a regional plant. Engineer Desmarais said he does not share Assistant Mayor Splaine's opinion.

Councilor Dwyer asked why other communities we approached made other decisions on a regional plant. Public Works Director Rice said a Committee was formed to study a regional plant and the project turned into an against growth discussion and the Conservation Law Foundation came forward and said every community needed to go their own way. He said the recommendation from the Committee did not support a regional approach.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he does not vote on the wastewater treatment plant lightly. He said there will be some inconvenience during the construction but we need to stop violating the clean water act. He said if he thought it was going to ruin the island he would vote no. He indicated that the boat launch and the pool will all be accessible and the plant will remain in the fence line. Mayor Blalock said we are not taking anything away and we are going to try and bring in as much construction materials by barge. He said this is not an easy decision but feels we are making the right decision.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Assistant Mayor Splaine said he is looking towards the future and every day is a new beginning. He said we need to make better choices and maybe we are not doing the best job we can tonight. He said we need to do more things regionally and we will have to do something more at Peirce Island and Pease in the future.

Public Works Director Rice said it takes partnerships to move forward in that way and we have difficulty getting smaller communities to spend money.

Assistant Mayor Splaine said there will be impacts to the dog park at Peirce Island during construction. Public Works Director Rice said a Joint Work Session with the Council, Peirce Island Committee, Parking & Traffic Safety Committee, Recreation Board and Trustees of the Trust Fund will take place to address more details. He said we need to identify times when contractors can't work.

City Manager Bohenko said answers to the questions asked have been provided to the City Council and are available in the back of the room for members of the audience and they are also on the website for review.

Assistant Mayor Splaine said he is against the motion and said we need to preserve Peirce Island for the future. He said we do not know what the EPA will ask of us in the future and we need to find a way to work with the PDA for expansion of the plant at Pease and that it could be a regional plant in time. He further stated he wants to clean up the river and preserve the recreational areas at Peirce Island.

On a roll call 8-1, voted to adopt a Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Seventy Five Million Dollars (\$75,000,000.00) for Costs related for the Construction of the Peirce Island Wastewater Treatment Facility. Councilors Perkins, Dwyer, Lown, Pearson, Spear, Cyr, Denton and Mayor Blalock voted in favor. Assistant Mayor Splaine voted opposed.

At 7:50 p.m., Mayor Blalock declared a brief recess.

Councilor Spear no longer participated in the meeting at 7:55 p.m. and ended the conference call.

At 8:00 p.m., Mayor Blalock called the meeting back to order.

Councilor Dwyer moved to direct the City Manager to develop one or more bid alts for the Peirce Island Wastewater Treatment Facility Upgrades for the delivery and removal of equipment and materials by water and further required a public hearing on the transportation alternatives when appropriate. Seconded by Councilor Lown.

Councilor Perkins said it is important to include the alternative transportation and make sure it is an option for the contractors because we don't want to disqualify the best contractor from the bid. She said she does not want the City to evaluate contracts on price alone. City Manager Bohenko said we would put bid alts as part of the bid document to make sure they meet all the requirements.

Councilor Dwyer said contingencies are built into the cost and if the price is much higher she would want to bring that back and have a public hearing on it. She said we have heard from people all over the community to move forward on the project.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said that this was a difficult decision. He said to come in by barge he feels we can mitigate much of the concerns.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Pearson said she has data for the area and the economic impact the cultural organizations bring into the City and will she be able to provide that information to the contractor and staff. City Manager Bohenko said he would work with Councilor Person on that and we will also have the same answers to everyone. He said there will be contractors that will send in questions as they prepare their bid and you send the answers to all bidders.

On a unanimous roll call vote 8-0, motion passed.

Councilor Lown said he is on the Parking & Traffic Safety Committee and saw the plans and many expressed concern on the number of trucks going into the south end and the length of the trucks was a concern as well as curb cuts. He said the individuals that spoke to the Committee made a difference and they will respond and do what they can to assist in the impacts.

Assistant Mayor Splaine said he would support the motion but wanted to make the motion contingent on 90% could be done by barge and appropriate the necessary funds needed. He said the City Council has been dealing with this for years and he wants to see a public hearing on mitigation. He said we should make a commitment on the funding needed.

Councilor Cyr said there is a perception from some of the community that we would not go through with barges. He said we should find a way to comment on it that is some what official. He said we have funds in a contingency and would like to move forward.

Assistant Mayor Splaine asked if there is a way to have it stated as the Council's intent that the City Manager assure through the application of bidding contract that most of the project would be done by marine. City Attorney Sullivan said it is not possible as there is no data to support it and it is too preliminary.

Councilor Dwyer said the intent of the motion is to accept an add alt that also was to move materials by barge.

Assistant Mayor Splaine moved that it is the intention of the City Council that in the bids 60%-90% of construction will be by barge or marine alts. Seconded by Councilor Dwyer.

Councilor Pearson said there are many that are 100% committed to this and the Council wants this to happen.

Councilor Lown said the motion has no meaning it is just a statement. He said we should not commit ourselves to a percentage as it is the hope to do this.

Councilor Perkins said she agrees we are all trying to do this but it is a serious amount of money and she would need more facts.

On a unanimous roll call vote 8-0, motion passed.

VII. PUBLIC HEARING

- B. RESOLUTION AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM UNASSIGNED FUND BALANCE FOR NECESSARY EXPENDITURES RELATED TO MIDDLE SCHOOL CONSTRUCTION OF UP TO SIX HUNDRED FIFTY THOUSAND (\$650,000.00) DOLLARS

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

Paul Mandle spoke in favor of the Resolution and said that this has been a long process. He said Parrott Avenue was not the perfect choice but the one that was decided upon. He said that we are now reaching the original construction costs.

With no further speakers, Mayor Blalock closed the public hearing.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Police Department Grant in the amount of \$30,000.00 from the NH Department of Justice for the 2016 Violence Against Women Grant Program

Councilor Lown moved to approve and accept the grant to the Portsmouth Police Department. Seconded by Councilor Cyr and voted.

- B. Approval and Acceptance of Donation Re: Bench from Richard and Janice Trafton in memory of their daughter Catherine Trafton in the amount of \$2,000.00

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

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- B. Adoption of Resolution Authorizing a Supplemental Appropriation from Unassigned Fund Balance for Necessary Expenditures related to Middle School Construction of up to Six Hundred Fifty Thousand (\$650,000.00) Dollars

Assistant Mayor Splaine moved to adopt a Resolution authorizing a supplemental appropriation from Unassigned Fund Balance the sum of up to Six Hundred Fifty Thousand (\$650,000.00) Dollars for Necessary Expenditures Related to the Middle School Construction, as presented. Seconded by Councilor Lown.

Deputy City Attorney Woodland reported over the last two years the 1930 structure of the building has experienced settlement which is beyond what is acceptable. She said that we are providing another level of shoring and we want it to have a long term benefit.

Councilor Dwyer said we need to go out to bid while the kids are out of school. She said it is the intent to pay the funds back from the settlement the City receives.

On a unanimous roll call vote 8-0, motion passed.

X. CONSENT AGENDA

- A. Letter from Deidre Reynolds, NH Chapter Leader for Moms Demand Action requesting permission to hold a Mother's Day week Bridge Walk for Gun Sense and to honor victims of gun violence on May 14, 2016 (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Molly Bolster, Executive Director and Matt Glenn, Captain, Gundalow Company requesting the use of Peirce Island launch ramp and related parking area for the Round Island Regatta on July 30, 2016 (***Anticipated action – move to refer to the City Manager with power***)
- C. Letter from Richard B. Wagner, Executive Director of AIDS Response Seacoast requesting permission to conduct the 20th Annual Seacoast AIDS Walk and Dog Walk on Sunday, May 1, 2016 (***Anticipated action – move to refer to the City Manager with power***)
- D. Request for Approval of Pole License to install 2 replacement poles located on Market and Bow Street intersection (***Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes***)
- E. Request for Approval of Pole License to install 1 replacement pole with guy-wire located on Sagamore Avenue (***Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes***)
- F. Request for Approval of Pole License to install 1 replacement pole and guy-wire located on Sherburne Avenue approximately 120' from Elwyn Avenue intersection (***Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes***)

Councilor Lown moved to adopt the Consent Agenda. Seconded by Councilor Perkins and voted.

XI. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Joseph R. Russell, Attorney for Maplewood Ridge LLC, Re: Request for Zoning Amendment – 678 Maplewood Avenue Parcel One (Tax Map 220, Lot 89) Parcel Two (Tax Map 220, Lot 90)

Councilor Lown moved to refer to the Planning Board for report back. Seconded by Perkins.

Councilor Dwyer asked if this is the same item that the Council referred to the Planning Board in the past. Planning Director Taintor said this is the same area that came before the Council but this is a smaller parcel.

Motion passed.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Peirce Island Consent Decree Second Modification with Environmental Protection Agency (EPA) et al.

Deputy City Attorney Woodland spoke on the new schedule for mitigation. She said that we have a schedule appropriate for Peirce Island and there would not be a second and third shift or weekend work. She said when you have multiple shifts you could incur errors. She reported on expectant dates of completion of various aspects of the project. She indicated the project substantial completion date is May 2020. Deputy City Attorney Woodland spoke to chemically enhanced settling performance study. She said we are trying to get removal of nitrogen TN 8 mg/L over a 5 year period following start up. She addressed the stormwater project which is an investment of \$500,000.00 with a completion date targeted at three years. In addition, she said there will be a sewer extension project to address Sagamore Avenue low pressure sewer system with an estimated cost of \$2.5 million and completion date of June 2022. She also addressed the water quality/ecosystem health project that is a \$500,000 investment over 5 years.

Councilor Denton asked if any of the projects are part of the CIP. Deputy City Attorney Woodland said the projects have been identified for a number of years and we would recoup cost from people tying into the system. Councilor Denton said the stormwater project is the first project we would recoup funds from.

Councilor Cyr said there is a principal forgiveness of 5%. He said we have funds available and do we need to go through the CIP. City Manager Bohenko said the funds will come in as anticipated revenues.

Assistant Mayor Splaine asked if people need to buy in when connections are made on the street. City Manager Bohenko said the amount is based on their frontage and would give individuals 5-10 years to pay back.

Councilor Dwyer asked if it is voluntary tie in. City Manager Bohenko said it is voluntary as long as your septic system does not fail.

Councilor Lown moved to authorize the City Manager to execute the Consent Decree Second Modification relative to the Peirce Island Wastewater Treatment Facility Upgrade, as presented. Seconded by Councilor Perkins and voted.

2. Adoption of the Capital Improvement Plan (CIP) FY2017-2022

Councilor Lown moved to adopt the Capital Improvement Plan for FY 2017-2022. Seconded by Councilor Perkins.

At 8:50 p.m., Mayor Blalock called a brief recess. At 9:00 p.m., Mayor Blalock called the meeting back to order.

Councilor Lown moved to amend page 67 - Multi-Purpose Recreation Field (Former Stump Dump) by the addition of \$1,750,000.00 under the Bond/Lease Column and the addition of \$250,000.00 under the Public/Private Partnership Column. Seconded by Assistant Mayor Splaine.

Councilor Dwyer said she likes the idea of moving the project up but she is not sure that bonding is the way to go. She said she would like to use the Daniel Street Trust funds. City Manager Bohenko said when the project comes back he would provide an option for the City Council.

Motion passed.

Councilor Lown moved to amend page 63 – Reuse of Paul A Doble Army Reserve Center by deleting \$50,000.00. Seconded by Councilor Denton.

Councilor Lown said he is not in favor of accepting the Doble property and feels we should not pursue getting the property. He said it would result in a \$2,000,000.00 renovation and the cost to operate a Senior Center at the location.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he would not vote in favor of the motion.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Assistant Mayor Splaine said he agrees with Mayor Blalock.

Councilor Dwyer said she would not support the motion.

Motion failed to pass on a 1-7 voice vote. Councilor Lown voted in favor. Assistant Mayor Splaine, Councilors Perkins, Dwyer, Pearson, Cyr, Denton and Mayor Blalock voted opposed.

Councilor Dwyer moved to amend page 64 – Park and Playground Improvements by the addition of \$50,000.00 for FY '18, FY '20 and FY '22. Seconded by Assistant Mayor Splaine.

Councilor Dwyer said she would like to see a playground at the Library and the Granite Street field. She said Councilor Spear is interested in a downtown playground.

Motion passed.

Councilor Dwyer moved to amend page 50 - Fire Station Three Renovations by moving the \$610,000.00 in funds out to FY '18. Seconded by Councilor Lown.

Assistant Mayor Splaine said he would like to see a work session after the budget session in June set up with the Fire Department and Police Department on how the future may look for both services.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he would not vote to push out the funding beyond FY18.

City Manager Bohenko spoke to interim renovations that were done to Fire Station 3 which totaled \$110,000.00 and that this would be a bond item that would come back to the City Council.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Dwyer said everyone seems interested in campus style facilities.

Councilor Lown said Fire Station 3 has some structural draw backs and feels that the current location is the best location. He said he is conflicted on the decision.

Mayor Blalock passed the gavel to Assistant Mayor Blalock.

Mayor Blalock said he feels the funding should remain.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Cyr said by leaving the funding in the CIP and having a work session later we can still have a conversation on the matter.

City Manager Bohenko said we would bundle items 3-5 and vote and have a better view of what will happen when we look in the third quarter.

On a 1-7 voice vote motion failed to pass. Councilor Dwyer voted in favor. Assistant Mayor Splaine, Councilors Perkins, Lown, Pearson, Cyr, Denton and Mayor Blalock voted opposed.

Councilor Pearson moved to amend page 103 – Elwyn Park Sidewalks Phase I by moving the \$98,000.00 in funds up to FY '18. Seconded by Assistant Mayor Splaine.

City Manager Bohenko said we could look into this.

Public Works Director Rice said the area has been looked at and it is challenging to get sidewalks through. He said there are sidewalks in the area that do not function and are not connected.

Assistant Mayor Splaine asked for an update on the Peverly Hill Road and Banfield Road projects. Public Works Director Rice said Peverly Hill Road approval is at the State currently and we should hear from the Department of Transportation this week. He said that a traffic impact study would be done on Banfield Road and Water Country will share in the funding. He further stated we are waiting for the letter from Water Country regarding the sharing of the funding for the study.

Motion passed unanimously.

Councilor Pearson asked about the outdoor pool upgrade. City Manager Bohenko said we are doing the project this year because the liner and gutter need to be improved. Public Works Director Rice said the project would be done in the fall after the pool has closed.

Main motion passed to adopt the CIP, as amended.

City Manager's Informational Item

2. Report Back Re: Riverbrook Condos-Water and Sewer Billing and Trash Removal Costs

Councilor Dwyer asked about the water and sewer billing and trash removal requests. Deputy Public Works Director Goetz said most condos have a meter and a number of condos have wanted to go to their own meters and the tier billing. He said they reviewed this matter and while the consumption charges would be reduced because of more water being billed at the lower tier rate, the monthly service fees would go up.

B. MAYOR BLALOCK

1. Appointments to be Considered:
 - Richard Winstanley reappointment to the Cable Television & Communications Commission
 - Colby Gamester reappointment to the Planning Board
 - Todd Henley reappointment to the Recreation Board
 - Tristan Law reappointment to the Transportation Service Commission
 - Mike Merando appointment to the Transportation Service Commission

The City Council considered the appointments which will be voted on at the next City Council meeting.

Assistant Mayor Splaine said because the Transportation Services Commission is meeting this week could we suspend the rules to vote on the two appointments this evening.

Councilor Cyr said it would be fine to move the appointments forward this evening.

Assistant Mayor Splaine moved to suspend the rules in order to act on the appointments of Tristan Law and Mike Merando to the Transportation Service Commission. Seconded by Councilor Denton and voted.

Assistant Mayor Splaine moved to reappoint Tristan Law and appoint Mike Merando to the Transportation Service Commission until December 31, 2017. Seconded by Councilor Denton and voted.

2. *Working Group Re: Deer Street Property Negotiations
 - Councilor Perkins
 - Councilor Lown
 - Councilor Spear

Mayor Blalock announced he has appointed Councilors Perkins, Lown and Spear to a Working Group regarding Deer Street Property Negotiations.

C. ASSISTANT MAYOR SPLAINE

1. Request for an updated appraisal of the land considered for purchase for the parking garage

Assistant Mayor Splaine moved to request the City Manager to solicit an independent appraisal company to appraise the proposed Deer Street Parking Center. Seconded by Councilor Denton.

Assistant Mayor Splaine said he would like to have another appraisal of the land.

Councilor Dwyer said she would like this matter placed on the first agenda of the Working Group.

Assistant Mayor Splaine said he would accept a motion to table until the next Council meeting.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said the Working Group needs to have time to work. He said the land is worth what we are willing to pay for it. He said he would be in favor of an appraisal if it was part of eminent domain. He would like to give the group until April 4th to do some work and come back to the Council.

Councilor Lown said an appraisal does not advance the process at all.

Councilor Denton said he would like to see an appraisal because of the contaminated land. He said if we went ahead would that factor into our current deadlines for the property. City Attorney Sullivan said the seller is inpatient but there is no current deadline.

Councilor Dwyer moved to table the motion until we receive a report back from the Working Group at the April 4, 2016 City Council meeting. Seconded by Assistant Mayor Splaine.

Assistant Mayor Splaine said we need to know how much it is really worth. He said he is against eminent domain and the owner needs to know that is an option for the City Council.

Councilor Pearson said she wants to caution against more appraisals, more studies and more delays. She said there was a unanimous vote last spring by the Council to do the work that needs to be done. She said we had a free lot at the Worth Lot and now we need to pay and voting on a delay means no parking garage for a longer period of time.

Motion to table passed.

D. COUNCILOR LOWN

1. Parking & Traffic Safety Action Sheet and Minutes of the February 4, 2016 meeting

Councilor Cyr moved to approve and accept the action sheet and minutes of the February 4, 2016 Parking & Traffic Safety Committee meeting. Seconded by Councilor Dwyer and voted.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

XIV. ADJOURNMENT

At 9:45 p.m., Councilor Dwyer moved to adjourn. Seconded by Councilor Perkins and voted.



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