

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, APRIL 18, 2016

PORTSMOUTH, NH  
TIME: 6:15PM

**At 6:15PM, a Work Session was held Re: Deer Street.**

### **I. CALL TO ORDER**

Mayor Blalock called the meeting to order at 7:05 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**

Recreation Director Wilson led in the Pledge of Allegiance to the Flag.

### **PRESENTATIONS**

1. Recognition of Portsmouth High School Boys 2016 New Hampshire Division 2 New Hampshire State Champions

Mayor Blalock provided plaques to the Portsmouth High School Boys Basketball players and coaches in recognition of being the Division 2 NH State Champions. Coach Mulvey thanked Mayor Blalock and the City Council for recognizing the team.

2. Peter Michaud of the Division of Historical Resources Re: Update on Nomination of Downtown Properties to the National Register

Peter Michaud provided an update on the Nomination of Downtown Properties to the National Register. He reported that letters will be sent to property owners on May 10<sup>th</sup> informing them of the project and any objections would need to be in by July.

### **V. ACCEPTANCE OF MINUTES – MARCH 21, 2016 & APRIL 4, 2016**

**Councilor Lown moved to approve and accept the minutes of the March 21, 2016 and April 4, 2016 City Council meeting. Seconded by Councilor Pearson and voted.**

## VI. PUBLIC COMMENT SESSION

Brendan Dubois, Exeter, NH, spoke regarding the delay by the Police Commission to appoint a new Police Chief. He said there are three other communities that were looking for a new chief within the same time frame as the City and the municipalities have hired a new chief. He said it is disappointing to hear that the Police Commission would not be appointing a new chief until sometime this fall between September to November.

Marylou McElwain requested that the Historic District Commission brick sidewalk policy be reviewed. She spoke to the difficulty with the bricks in the winter months and that the material is very slippery.

Pat Ford, Star Island Nurse Practitioner, spoke in opposition to transferring the fire boat to Gilford, NH. She said that the fire boat has been called to Star Island in the past and they would not have another resource if Portsmouth transferred the boat. She said at least delay the transfer to allow Star Island to find another means of transport to be located from the Island in the case of an emergency.

**Councilor Spear moved to suspend the rules to take up Item XII. A.1. – Deer Street Garage Property Acquisition, Purchase and Sale Agreement and Post Closing Obligations Agreement Options as result of Work Session. Seconded by Councilor Lown and voted.**

Councilor Cyr announced he would be recusing himself from the discussion and vote on this matter as he owns property at 263 Hanover Street which is near the Deer Street property and if this land is purchased it could have an affect on the valuation of properties in the area.

**Councilor Spear moved that the City Manager is hereby authorized to execute the Purchase and Sale Agreement and Post Closing Obligations Agreement with Deer Street Associates on behalf of the City regarding the City's acquisition of a potential site for a municipal parking garage on Deer Street (collectively, the "Documents") once the schedules of those Documents are in completed form and attach thereto with the advice and consent of the Working Group. Be it further moved, that the City Manager is authorized to negotiate and execute any amendments, exhibits or attachments to those Documents as are substantially consistent with the material terms of the Documents approved by the City Council and as he may deem appropriate. Seconded by Councilor Lown.**

Councilor Spear said there is a great deal of work that has taken place on this matter. He said that there is a long term benefit to the City and that this is the obvious choice for a new parking garage.

Councilor Lown said he would support the motion. He said some people feel Worth Lot is a better site but after looking at the Deer Street site it is clearly the right decision. He said it is located in an area of the City that is expanding. He thanked The Roger's for their time and effort on making this deal, which is much better now than a few months ago. Councilor Lown said we need to start thinking of both Deer Street and the Worth Lot for parking garages because we will need to pursue both due to the parking issues in the City.

Councilor Denton said he is a proponent of the parking garage because it is out of the center of the City. He said he would support it because it is on an egress in and out of the City.

Councilor Pearson said she would support the motion. She said there is a lot of economic infusion from this project in the local economy. She said all the money will stay in the City and we will receive 600 new parking spaces which is an economic development advantage in the downtown.

**Assistant Mayor Splaine moved to amend and request an updated property appraisal prior to the completion of the agreement. Seconded by Councilor Denton.**

Assistant Mayor Splaine said this is a win for the community. He spoke to the land and said we can do more for affordable development and housing for the north end. He said the project provides for economic development. He stated fair market value is important and this is not coming out of taxes. Assistant Mayor Splaine said you can make money on parking garages. He stated the motion was made with the intent to get more information before we finalize on the payment.

Councilor Lown said we already have an appraisal for the property and the motion to amend will cause a delay and it would be costly for another appraisal. He said this will not change the equation and this is a fair price.

**On a roll call vote 2-6, motion to amend and request an updated property appraisal prior to the completion of the agreement failed to pass. Assistant Mayor Splaine and Councilor Denton voted in favor. Councilors Perkins, Dwyer, Lown, Pearson, Spear and Mayor Blalock voted opposed. Councilor Cyr recused himself from this matter.**

Councilor Dwyer said the motion is not to build a particular garage on the site. She said we are not really building anything as we need to figure out what the process will be to ensure we get what we think we want because there is a lot ahead of us. She said the public space is an issue and the idea that there are 600 spaces to the garage we would need to raise the fees. She asked what the steps will be and said the City Council needs to be a part of that process. She said this will not solve every parking problem.

Councilor Spear said we have good experience building public buildings in the City. He said the staff could come back with the mechanism for what the parking garage would look like.

Assistant Mayor Splaine said we need to include residential discount parking as part of the parking changes. He asked for an update on the process going forward. City Manager Bohenko said the closing would take place and then we would bring Walker Consultants on for the design of the garage. He said we have done our environmental work on the site and we are looking at how to build the road. He spoke to the need to still purchase a small property by the Gray's. City Manager Bohenko said we need to move forward and bring the process before the Historic District Commission and land use agencies to work with the City Council on pricing of the garage and residential parking which is the second piece to have in place.

**On a unanimous roll call vote 8-0, main motion passed. Councilor Cyr recused himself from this matter.**

**Councilor Spear moved that a public hearing be held before the City Council on May 16, 2016 pursuant to RSA 231:43 for the purpose of discontinuing any rights of the City or the public in the following two parcels of property:**

**A certain triangular tract of land being located at the northwesterly corner of and within the intersection of the Deer Street and Bridge Street rights of way, and being approximately 1,717 square feet in size; and**

**A certain trapezoidal tract of land being located along the northerly boundary of said triangular tract of land being approximately four (4) feet wide and being approximately 269 square feet in size**

**And that at least fourteen (14) days prior to the public hearing written notice be given to all owners of property abutting the said areas. Councilor Cyr recused himself from this matter. Seconded by Councilor Lown and voted.**

## **VII. PUBLIC HEARINGS**

- A. ORDINANCE AMENDING CHAPTER 11, ARTICLE II, SECTION 11.216:B – SEWER USER CHARGES/RECORDS/HOOK-UP BY THE ELIMINATION OF IRRIGATION METERS

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

John O'Leary said he has a second water meter for watering his lawn, flower and vegetable gardens. He spoke against the elimination of irrigation meters and said you need to realize how the changes will impact property owners. He provided a list of suggested fees for the irrigation meters to remain. He said his family puts a great deal of work on maintaining their lawn and gardens and urged the City Council to keep the irrigation meters.

Marylou McElwain said it is interesting that only 300 households have the meters. She said this may be because there was no advertising for the irrigation meters. She spoke in support of conservation.

John Lyons Attorney representing homeowners that have the meters spoke against the ordinance. He thanked the City for working with him in a straight forth way. He said the new ordinance that has a public hearing next would encourage conservation.

Richard Gamester said he supports water meters and it is important not to support the elimination of meters.

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

- B. ORDINANCE AMENDING CHAPTER 11, ARTICLE II, SECTION 11.216B – SEWER USER CHARGES/RECORDS/HOOK-UP TO ALLOW AN APPROVED IRRIGATION SYSTEM AND A WATER METER AT A MONTHLY SERVICE FEE IN ADDITION TO THE CONSUMPTION CHARGE, SAID FEE TO BE DETERMINED BY THE CITY COUNCIL DURING ITS ANNUAL BUDGET PROCESS

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

John Lyons said he hired Peter Weeks on behalf of his clients to review records on water usage in the City.

Peter Weeks said he analyzed the usage of water in the City. He asked that the City Council defeat the first ordinance that was up for a public hearing. He stated he was amazed at the time and effort of work that came back with this new ordinance for use by everyone. He said this is a fair and equitable fee to allow customers to have irrigation meters. Mr. Weeks said the ordinance proposed will help with the conservation of water. He thanked Deputy Public Works Director Goetz on how the water is managed.

John Lyons said the City Manager and staff are presenting a balance to the City Council and public with this ordinance. He said this is about fairness and urged the City Council to pass second reading.

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

- C. RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF UP TO FIVE MILLION DOLLARS (\$5,000,000.00) FOR COSTS RELATED TO PHASE II OF ELEMENTARY SCHOOL FACILITY IMPROVEMENTS

Mayor Blalock read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor Blalock closed the public hearing.

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

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

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

- A. Second Reading of Ordinance amending Chapter 11, Article II, Section 11.216B – Sewer User Charges/Records/Hook-Up by the Elimination of Irrigation Meters

**Councilor Denton moved to pass second reading and schedule a third and final reading on the proposed Ordinance, as presented, at the May 2, 2016 City Council meeting. Seconded by Assistant Mayor Splaine.**

Councilor Denton thanked the staff for the work and said he would like to bring the ordinance back in and said the best way to conserve water is to eliminate the meters.

Assistant Mayor Splaine asked Deputy Public Works Director Goetz to look at the rates in the budget process. Deputy Director Goetz said all rates are reviewed during each budget.

Councilor Dwyer said that this is a complicated matter and she is convinced by the comments people will continue to use water whether the meters are in place or not.

Councilor Lown said he would vote against the motion. He said it favors everyone to have the meters which are designed to look at the over use of water by the use of meters.

Councilor Cyr said the way to get answers is to experiment. He said he would like to know a year from now if this works or not. He asked if in a year can the City Council revisit the topic of not eliminating the meters.

City Manager Bohenko said if this passes there will be significant capital investments with this ordinance and this would be in place for a few years.

**Motion failed to pass. Councilors Spear and Denton voted in favor. Assistant Mayor, Councilors Perkins, Dwyer, Lown, Pearson, Cyr, and Mayor Blalock voted opposed.**

- B. Second reading of Ordinance amending Chapter 11, Section II, Section 11:216:B – Sewer User Charges/Records/Hook-up to Allow an Approved Irrigation System and a Water Meter at a Monthly Service Fee in addition to the Consumption Charge, said Fee to be Determined by the City Council during its Annual Budget Process

**Councilor Spear moved to pass second reading and schedule a third and final reading on the proposed Ordinance, as presented, at the May 2, 2016 City Council meeting. Seconded by Councilor Denton and voted.**

- C. Adoption of Resolution Authorizing a Bond Issue and/or Notes of up to Five Million Dollars (\$5,000,000.00) for Costs Related to Phase II of Elementary School Facility Improvements

**Councilor Lown moved to adopt the Bonding Resolution of up to Five Million (\$5,000,000.00) Dollars for Phase II of the Little Harbour School Improvements. Seconded by Assistant Mayor Splaine.**

Assistant Mayor Splaine said many City Councilors took the tour of Little Harbour School last week. He said last year the Council made an issue of sprinkler systems and removal of asbestos and he commended the School Board for their hard work in resolving those matters.

**Motion pass on a unanimous roll call vote 9-0.**

Mayor Blalock brought the attention of a typographical error in the ordinance and asked for the City Council to approve the change to the ordinance and to have the new ordinance brought forward with the change at next City Council meeting for third and final reading.

**Councilor Spear moved to correct a typographical error to (a) Automatic irrigation systems shall #4 by replacing the word higher with the word “lower”. #4 will read as follows: Include freeze sensors to be installed and maintained on all irrigation systems equipped with automatic irrigation controllers, which will render the system inoperative at 35 degrees Fahrenheit or lower. Seconded by Councilor Pearson and voted.**

## **X. CONSENT AGENDA**

- A. Letter from Laurie Mantegari, Scarecrows of the Port Committee, requesting permission to place scarecrows in designated locations throughout the Portsmouth Downtown Area ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Jay Diener, Seacoast Half Marathon, requesting permission to hold the 11<sup>th</sup> Annual Seacoast Half Marathon on Sunday, November 13, 2016 ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Sister Mary Agnes, St. Charles Children’s Home, requesting permission to hold the 20<sup>th</sup> Annual St. Charles Children’s Home 5K on Monday, September 5, 2016 ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from Allan Scholtz, Portsmouth Professional Firefighters Local 1313, requesting permission to hold 2 boot drives this year, the first on Saturday July 9<sup>th</sup>, and the second on Saturday, August 20<sup>th</sup> for the Muscular Dystrophy Association in Market Square ***(Anticipated action – move to refer to the City Manager with power)***

**Councilor Spear moved to adopt the Consent Agenda. Seconded by Councilor Dwyer and voted.**

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

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

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

### **A. CITY MANAGER**

- 2. Portsmouth Public Media, Inc. Proposed Lease Renewal

Assistant City Manager Moore provided a brief presentation regarding the proposed lease renewal.

**Councilor Spear moved to authorize the City Manager to enter into a Lease Agreement with Portsmouth Public Media, Inc. for the South Meeting House at 280 Marcy Street from May 5, 2016 to May 4, 2021. Seconded by Assistant Mayor Splaine and voted.**

3. Ratify Appointment of Nancy Colbert Puff to replace David Allen, Deputy City Manager on the Planning Board effective May 16, 2016

**Councilor Spear moved to ratify the appointment of Nancy Colbert Puff to replace David Allen, Deputy City Manager on the Planning Board effective May 16, 2016. Seconded by Councilor Cyr and voted.**

4. Request for Approval Re: Transfer of 2006 Fire Boat – Gilford, NH

Fire Chief Achilles spoke to the fire boat and the transfer to Gilford, NH. He said having the boat costs the City \$50,000.00 each year. He said there are other areas of value in the fire service that the \$50,000.00 could support. He stated there is no fee for surrendering the vessel to Gilford.

Assistant Mayor Splaine asked about the concerns expressed by Ms. Ford during public comment. Chief Achilles said the Coast Guard could handle calls to Star Island. He said you need to remember that Star Island is not located in the City of Portsmouth but the Town of Rye and they need to be the one to supply service to the Island. He stated in FY18 the department will be looking for a supplemental vessel.

Councilor Spear asked if the stipends would go away now that the City would no longer have a fire boat. Chief Achilles said they have not decided that yet and they would look at union negotiations regarding this matter.

**Councilor Spear moved to approve the disposal of the Fire Department's 2006 Fire Boat, as presented. Seconded by Councilor Lown.**

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

5. Request to Schedule a Public Hearing for Refinancing Callable Bonds

City Manager Bohenko explained that there are callable bonds for reissuance for a 10 year period and we would see \$1,000,000.00 in savings from reissuance.

**Councilor Spear moved to establish a public hearing at the May 2, 2016 City Council meeting for an Advanced Refunding Bond Resolution of up to Thirteen Million Dollars (\$13,000,000.00) to refinance the remaining portion of the aforementioned callable bonds and all related costs. Seconded by Councilor Pearson and voted.**

City Manager Bohenko said the 2016 Council Calendar was put together in November and a work session was scheduled for April 27<sup>th</sup> regarding the Pease Wastewater Treatment Facility which is no longer needed since the facility will be built at Peirce Island.

*The City Council agreed to cancel the Work Session on April 27, 2016 regarding Pease Wastewater Treatment Facility.*



**B. MAYOR BLALOCK**

1. Appointments to be Voted:
  - Reappointment of Amy Burns to Cable Television and Communications Commission
  - Reappointment of Robert Capone to Cable Television and Communications Commission
  - Reappointment of Cliff Lazenby to Citywide Neighborhood Steering Committee
  - Reappointment of Samantha Wright as alternate to the Conservation Commission
  - Reappointment of Kory Sirmaian to the Recreation Board

**Councilor Spear moved to reappoint Amy Burns and Robert Capone to the Cable Television and Communications Commission until April 1, 2019; reappoint Cliff Lazenby to the Citywide Neighborhood Steering Committee until April 1, 2019; reappoint Samantha Wright as alternate to the Conservation Commission until April 1, 2019 and reappoint Kory Sirmaian to the Recreation Board until April 1, 2019. Seconded by Councilor Lown and voted.**

**C. COUNCILOR LOWN & DENTON**

1. Surfrider – Plastic Bag Ordinance

**Councilor Denton moved to have the City Attorney draft a letter from the City Council to the DES Commissioner and the DES Waste Division Director asking if DES believes 149-M given municipalities the authority to 1) ban single-use plastic shopping bags; and 2) establish the ten cents paper bag pass through that was part of the previous draft ordinance. Seconded by Councilor Spear and voted.**

**D. COUNCILOR LOWN**

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the April 7, 2016 meeting

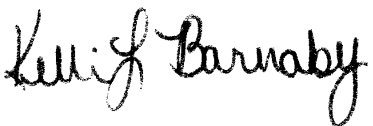
**Councilor Lown moved to approve and accept the action sheet and minutes of the April 7, 2016 Parking and Traffic Safety Committee. Seconded by Councilor Spear and voted.**

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

Councilor Cyr requested a report back on water conservation programs that are available in the City.

**XIV. ADJOURNMENT**

**At 9:20 p.m., Councilor Lown moved to adjourn. Seconded by Councilor Pearson and voted.**

A handwritten signature in black ink that reads "Kelli L. Barnaby". The signature is written in a cursive, flowing style.

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