

**REGULAR MEETING
PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

**CITY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

SEPTEMBER 20, 2001

MEMBERS PRESENT: **Arthur Parott, Chairperson; Kenneth Smith, Vice Chairperson; Richard A. Hopley, Building Inspector; Thaddeus J. "Ted" Jankowski, Deputy City Manager; Noele Clews, City Council Representative; John Sullivan; Ray Will; Ernie Carrier; and, Don Coker, alternate**

MEMBERS ABSENT: **Faye Goldberg; and, Paige Roberts, alternate**

ALSO PRESENT: **David M. Holden, Planning Director; and, Lucy E. Tillman, Planner 1**

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Prior to proceeding with the meeting, the Chairman asked for a moment of silence in recognition of what occurred on September 11th and in remembrance of the victims and their families, including rescue workers and military personnel.
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I. OLD BUSINESS

A. The application of the **City of Portsmouth** for property located off **Junkins Avenue** wherein site plan approval is requested for improvements to the parking lot located at the rear of the Municipal Complex with associated site improvements. Said property is shown on Assessor Plan 110 as Lot 1 and lies within the Municipal district. (This application was tabled to this meeting from the Board's August 16, 2001, meeting.)

SPEAKING TO THE APPLICATION:

Let the record show that Mr. Jankowski recused himself from sitting on this application as it involves a City project. Mr. Smith moved to take the application off the table. Mr. Sullivan seconded the motion. The motion passed on an 8-0 vote.

John Chagnon of Ambit Engineering addressed the Board and informed them that Brad Russ, Chief of Police, Steve Parkinson, Director of Public Works, John Burke, the City's Traffic Engineer, and John Bohenko, City Manager, were seated in the audience and were available to answer any questions the Board might have with regard to this application.

The project involves the parking area behind City Hall and the desire to increase parking by providing structured parking. While Mr. Chagnon was making his presentation, Planning Director, David Holden, showed slides of existing conditions. Currently, 45 marked parking spots exist behind City Hall. There are at least 53 vehicles that need to park back there. Vehicles are being forced to park in the alleyways and accessways creating an unsafe condition for the normal flow of traffic and the normal operations of a parking lot.

Mr. Chagnon went on to explain that the aisles are well in excess of the minimum width required; that such a situation provides an opportunity to make the parking area more efficient and to provide more parking spaces. The proposal calls for the creation of 66 parking spaces. The cost estimates are in line with what has been appropriated and is available for the work. It was Mr. Chagnon's opinion that the proposal would result in a large improvement to safety.

Mr. Chagnon went on to comment that the City is not doing anything that a normal applicant would not have to do in an application of this kind. He explained that there would be four new lights in the parking area directed away from the abutters. The purpose of the lighting would be to light the access way, the parking facility and the parameters of the building. Mr. Chagnon felt that lighting would be very important to the safety of people as they travel to the parking spots and in leaving the area.

A landscaping plan has been provided which calls for three trees and some 44 shrubs mostly to screen abutting property owners which protection those residents would not get but for this proposal. Landscaping will also be used to define the structure of the parking lot.

Signage and striping will be provided including directional arrows to indicate the one-way flow of traffic and "Do Not Enter" signs at the end of Mt. Vernon Street. In other words, traffic on Mt. Vernon Street is one-way in to the parking lot. "Left turn only" signs will be posted as one leaves the parking area. The entire lot will receive a one inch overlay which will help in erosion control.

Some issues have been raised by abutters; such as, traffic. It is anticipated that traffic on Mt. Vernon Street would decrease. Another issue is pedestrian access. The City has agreed to work on the issue in the future and to balance the issue of pedestrian access with the issue of everything the police officers do in their line of work.

Drainage had also been raised as an issue. Mr. Chagnon explained that the storm water runoff basically flows to the north (about 90%) and that a small section flows to the south. There will be a minor increase to the paved surface. The slight increase in storm water runoff will be directed to the Mill Pond side of the project. It was Mr. Chagnon's opinion that the increased landscaping would mitigate the increase in storm water runoff resulting in no drainage off site. He did speak to a slight increase down Mt. Vernon Street due to the paving of two parking spots to the left of the entrance. He did not think it would be a problem. However, if a problem does occur with storm water runoff, then the two spots would be eliminated. He continued on to state that when Mt. Vernon comes up for improvements in connection with the South Street improvements, that they would be willing to work with the neighborhood to address any problems at that time.

Ms. Clews inquired as to the height of the retaining wall with Mr. Chagnon responding by stating that it would be three to six feet in height. Ms. Clews asked if it would be a concrete retaining wall. Mr. Chagnon stated that it could be concrete or it might be exposed ledge.

In answer to a question about the minimum standard aisle size, Mr. Chagnon stated that it is 24'.

Mr. Coker asked if there were any regulations, State or otherwise, as to any buffer from the South Mill Pond. Mr. Chagnon responded by stating that the Mill Pond is a tidal area; that the State has a 100' tidal buffer zone setback. He reported that the proposal before the Board is not in that 100' buffer zone.

Mr. Smith asked if there would be adequate room to push snow off site. Mr. Chagnon explained that the snow storage area is not labeled on the plan; however, snow will be placed on the northerly side of the parking lot. Mr. Smith asked that such a located be marked on the plan.

John Burke, Parking and Transportation Engineer, addressed the Board. He stated that the purpose of the project is to better orient parking in the lot and to make more efficient use of the space taking into consideration that the existing aisles are actually 40' wide. In other words, the intent is to formalize parking where people are now informally parking and to have the parking conform to the standards spelled out in the *Zoning Ordinance*.

Mr. Burke went on to state that the Traffic/Safety Committee considered the traffic speeds on Mt. Vernon Street as they were perceived to be high; that traffic volume was perceived to be high. Traffic speeds were recorded for one week in May using the tube count. Independent of those counts, the Police Department took their own counts the following week using radar. The speeds averaged 15 mph, and it was a staff recommendation to post a 15 mph speed limit. However, due to neighborhood concerns, the

Traffic/Safety Committee recommended to the City Council that the speed limit be posted as 10 mph. A Public Hearing was held and the speed limit is now posted.

With regard to traffic volume, Mr. Burke reported that the count is 170 cars on an average weekday. Consideration was given to a way to further reduce traffic volumes. It was suggested that traffic not be allowed to exit via Mt. Vernon Street. Some 35 cars use Mt. Vernon Street daily when leaving the lot. It is anticipated that traffic would be reduced by some 20%.

Mr. Burke continued on to explain that the proposal is not adding cars as much as trying to make it safe for cars out there. The need and desire for a pedestrian access has been recognized. It was his recommendation that the issue of the access go through the Planning Board/CIP process to formalize.

Mr. Sullivan commented that when one looks at the pictures, it almost appears that too many vehicles are parked out in back of City Hall that shouldn't be there. He spoke to the empty spaces at the South Mill Pond parking lot as well as the Municipal Complex parking lot off South Street. He felt that if employees parked a little further away and walked to work, that this project would not be needed. He spoke to increased security under present conditions and the fact that a lot of those vehicles should not be allowed to be parked in close proximity to the Police Station.

Brad Russ, the Chief of Police, addressed the Board and stated that it is essential that they allow their employees to be in an area that can be controlled and monitored; that parking Police vehicles in public streets invites vandalism. He saw the proposal as a compromise between a fenced in and gated area. He went on to state that they are trying to balance the needs of the residents of the City of Portsmouth and Mt. Vernon Street and the legitimate concerns of employees.

Mr. Sullivan commented that it is pretty hard for most vehicles to keep their speed down at 10 mph. Chief Russ responded that a monitoring of the traffic flow revealed that the average speeds are under 15 mph indicating that motorists are keeping their foot on the brake. He added that the most recent monitoring was done as of yesterday using radar. Chief Russ explained that he has been meeting with the residents of Mt. Vernon Street; that the Police have agreed to a one-way out on Mt. Vernon Street with a one-way flow southerly out to Junkins Avenue.

Mr. Coker commented that with regard to the security issue, he felt that if the area needed to be fenced in and gated, then that is what should be done. However, he did not understand why the pedestrian access needed to go through the CIP process. He continued on to state that in 1973, he lived at 28 Blossom Street and he used to walk to the end of Blossom Street, cut through the woods, go around the corner and "bang", he was in town.

The Chief stated that the area is posted for authorized personnel only; that the intent is to facilitate pedestrian traffic that would meet the needs of the Police Department and the business needs of the Police Department; such as, the public retrieving towed cars. He mentioned that cruisers have been vandalized in the rear lot. He spoke to people walking around, milling around in that area because one of their friends had been arrested. He explained that the issue is a security issue; that the Municipal Complex is not what it used to be, it is not a hospital.

The Chief went on to state that this is a project that he has been requesting for the past two years pointing out that he is trying to accommodate 130 employees. The Chair asked if the arrangement would meet the Chief's needs for the foreseeable future with the response being in the affirmative.

Mr. Burke commented that the Traffic/Safety Committee recognized the importance of having pedestrian access. Mr. Holden interjected that a pedestrian access would have a minimum impact on this project; however, it is important enough to be incorporated into the CIP as a proposed project which would come before the Board for inclusion and would involve a public process. Mr. Burke commented that there is a desire to be able to walk between the buildings. Mr. Holden interjected that the public used to have access through the parking lot; however, that is no longer feasible. He went on to state that the access way could have a significant impact on abutting property owners and that lighting could be a significant issue.

Mr. Holden compared the issue to that of the Little Harbor School project and an associated drainage issue which was larger than the scope of the original project; that subsequently the drainage system became a project within the CIP. He went on to state that the intent is to identify a project and put it in the CIP and design it in accord with neighborhood issues.

Steve Parkinson, Public Works Director, addressed the Board and referred to an informal path that exists between some very large Pines. He felt that it was necessary to make the path secure for the neighborhood and safe for the people who are currently using it; that the walk area should be formalized.

There being no further speakers, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Smith moved to approve as presented with the stipulation that the snow removal area be marked on the plan. Mr. Sullivan seconded the motion.

Mr. Carrier suggested that Mr. Chagnon take another look at the drawing; that the plan might be better with a little tweaking adding that by making 8 1/2" width spaces that the City would be able to gain more spaces. He also urged Mr. Chagnon to be sure where the data lines are located if it is discovered that blasting is needed adding that Mr. Chagnon be very pro-active as to the location of such lines. He concluded his statements by stating that he certainly applauded the project. The motion passed on an 8-0 vote.

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Mr. Sullivan moved to suspend the rules to allow the Public Hearing on the Spinney Road water tower to be taken out of order. Mr. Smith seconded the motion. The motion passed unanimously.

Let the record show that Mr. Jankowski recused himself from sitting in on this Public Hearing as the proposal is a City project.

I. The application of the **City of Portsmouth** for property located off **Spinney Road** wherein site plan approval is requested for the installation of a steel elevated one million gallon water tank on a concrete pedestal base with associated site improvements. Said property is shown on Assessor Plan 170 as Lot 3 and lies within a Single Residence B district.

SPEAKING TO THE APPLICATION

David Allen, Deputy Public Works Director, addressed the Board and informed them that Tom Cravens, Project Engineer, was in the audience and would be available to answer any questions the Board might have as well as the engineer from Landmark. Mr. Allen explained that over the last couple of years the replacement of the water tank has been part of the CIP. The tank was installed in 1941 and was a half million gallon tank on Spinney Road. The painting cycle was every 20 years. When the painting job was put out to bid, the bids came back somewhat higher than anticipated. A closer look at the tank revealed corrosion difficulties. An evaluation was made whether it would be worth painting or replacing.

The Master Plan for the water system indicates that more storage capacity is needed for fire suppression capabilities. A request to the State Revolving Loan Fund was approved. Landmark Construction was awarded the bid for 1.2 million dollars for a composite tank with a concrete base and a steel upper bowl. Composite tanks have been used quite frequently in the United States but not in New England. A composite tank costs less than a steel tank and has lower maintenance costs as there is not much of a surface to be painted – just the large bowl. Mr. Allen went on to state that there are some 250 such tanks in the United States and about 100 in Canada adding that Landmark has built 70% of them.

The construction schedule calls for the construction of the concrete base to begin on October 1. The actual construction of the bowl will be done on the ground and then it will be jacked up on top of the pedestal. Construction will be shut down for the winter season. The estimated completion date is around

October of next year. Mr. Allen commented that starting on July 11th of this year, it took two days to take the old tank down.

The 70' upper bowl will be the widest part of the tank. The overall footprint is significantly smaller than the tank that is being replaced. The project is a design build type of project. The driveway area will be paved. The overflow presently goes out to Spinney Road. It was perceived that some problems could be had with drainage; therefore, the plan is to have the overflow go out back and to have a level spreader installed with a drainage swale which would direct the overflow to the Route 1 ByPass.

With regard to the landscaping plan, Mr. Allen stated that they have worked with the neighbors to provide some screening. A row of trees will be planted along the boundary – arborvitae type trees. The valve boxes will be screened off. The surrounding area will be cleared and will be used as a lay down area for such things as cranes moving large slabs of steel. Mr. Allen spoke to a cross section of the tank explaining that the tank will have an overhead door and a small storage area.

Mr. Will asked if the new tank would result in a change in water pressure. Mr. Allen indicated that the pressure in that area really wouldn't change; that the new tank will be at the same elevation as the old tank. Mr. Will referred to the Boston Gas tank logo commenting that the graffiti on the old tank made it look nice. Mr. Allen explained that the surface of the tank would be very smooth with some recesses, some panels on it to break up the texture; that the tank would not be climbable; that there would be no graffiti on the tank.

Mr. Allen went on to explain that included in the bid was the item to put the word, Portsmouth, on the tank. That issue is still unresolved. As far as color is concerned, Mr. Allen explained that the colors that Landmark have are environmentally friendly – not stark white; that it is intended to be a cloud type white which would blend into the sky adding that the lower bowl would be concrete.

Mr. Will remarked that he was encouraged to hear that the tank would be graffiti proof. However, he felt that just having the word, Portsmouth, on the tank would be a tad bland. He suggested that any approval include the stipulation that the City Council look at that as an issue.

Ms. Clews stated that she agreed with Mr. Will; that the appearance of the tower was very important. However, she realized that it was not up to the Board to decide that question at this meeting. She suggested that perhaps a committee could be created to look at how the tower should look.

Mr. Allen commented that his only concern would be that there be nothing growing on the tank that would affect in any way the structural integrity of the tank. Mr. Sullivan stated that speaking for the neighbors that it was his impression that they didn't want any murals -- no psychedelic colors; that they would like something that would blend in with the foliage; that the neighborhood would have no objection to having Portsmouth, New Hampshire put on the water tank. It was his feeling that it was important to have the tower identified. He went on to state that he was happy to see that the direction of the overflow will be changed. He explained that presently the water crosses Spinney Road and freezes in the wintertime creating problems for everyone.

Mr. Carrier noted that the tank would be gravity fed and asked if the proposal calls for any generators. Mr. Allen replied in the negative explaining that there would be minimal electronics; such as, some type of scaling equipment. Mr. Cravens interjected from the audience that there would be battery backup.

Mr. Sullivan commented that he thought that the City had done a marvelous job going around and seeing the neighbors and keeping the neighborhood informed as to what is going on adding that Mr. Cravens was a good representative of the City in doing that. The Chair commented that he suspected that the neighborhood would be represented on the color committee.

The Chair made a last call for speakers. There being none, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE BOARD

Mr. Will moved to approve the site plan with the stipulations contained in the Planning Department's memo and the additional stipulation that the City Council establish a committee regarding the painting to be done on this project with the recommendation that at least two members of the Spinney Road neighborhood be put on that committee. Mr. Carrier seconded the motion for discussion purposes stating that he did not agree with the stipulation to the City Council.

Mr. Holden suggested that the Board could approve the site plan and then make a recommendation to the City Council.

City Manager. Bohenko, who was seated in the audience, came forward and assured the Board that he would talk to the City Council and determine if they want to be involved. He went on to state that the City has been very sensitive to the needs of the neighborhoods and that the City did not want to do anything that would be detrimental to the neighborhoods.

The Chair stated that if the Council is looking for a subcommittee, that the Planning Board would be more than happy to work with Public Works and the Planning Department. Mr. Sullivan commented that he felt that most of the neighbors had heard from Tom Cravens; that they had enough faith and confidence in the Public Works Department to let the City resolve the issue of color and signage.

Mr. Carrier called for the question. The motion passed on an 8-0 vote.

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The Board then took the following matters out of order:

C. The application of R & L Enterprises for property located off Lang Road wherein Preliminary and Final Approval is requested for a lot line verification of a 1.37 acre lot with some 290' of continuous street frontage. The 50' wide right-of way as shown on plan entitled, "Lot Line Revision for Erminio A. Ricci" dated October 19, 1981, recorded in the Rockingham County Registry of Deeds as D-10485 and as shown on plan entitled, "Subdivision of Land for R and L Enterprises" dated February 4, 1982, and recorded in the Rockingham County Registry of Deeds as C-10638 is not shown on the proposed lot line verification plan. Said property is shown on Assessor Plan 286 as Lot 22-A and lies within a General Business district. (This application was tabled to this meeting from the Board's August 16, 2001, meeting.) (A withdrawal request has been received.)

Mr. Smith moved to take the application off the table. Mr. Will seconded the motion. The motion passed unanimously. Mr. Smith moved to table the application indefinitely. Mr. Will seconded the motion. The motion passed on a 9-0 vote. The Board made note that a withdrawal request had been submitted to the Planning Department.

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D. The application of Anthony Giovannettone for property located off Lang Road wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* to allow the construction of a two-story 28' x 65' building upon a paved accessway within an Inland Wetlands Protection District Buffer Zone. Said property is shown on Assessor Plan 286 as Lot 22A and lies within a General Business district. (This application was tabled to this meeting from the Board's August 16, 2001, meeting. The Public Hearing remains closed.)

Let the record show that Messrs. Coker and Hopley recused themselves from sitting on this application. Mr. Smith moved to take the application off the table. Mr. Will seconded the motion. The motion passed on a 7-0 vote. Mr. Smith moved to table the application to a time indefinite. Mr. Will seconded the motion. The motion passed on a 7-0 vote.

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At this point in the proceedings, the Board acted to table Public Hearings D and E to the next meeting of the Board, October 18, 2001. Mr. Smith so moved. Ms. Clews seconded the motion. The motion passed on a 9-0 vote. Mr. Holden interjected that the tabling action was taken to allow time for the Conservation Commission to obtain more information on these projects.

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B. The application of Ervin Fazekas d/b/a Mr. Bubbles Car Wash for property located at 1725 Woodbury Avenue wherein site plan approval is requested for the addition of three landscape areas with associated site improvements. Said property is shown on Assessor Plan 215 as Lot 10 and lies within a General Business district. (This application was tabled to this meeting from the Board's August 16, 2001, meeting.)

SPEAKING TO THE APPLICATION:

Mr. Smith moved to take the application off the table. Mr. Sullivan seconded the motion. The motion passed on 9-0 vote.

Mr. Ervin Fazekas addressed the Board. He explained that Roger Brown of JSN Associates had shaded in the proposed landscape areas in yellow on the submitted plan. The proposed landscaping would not affect any of the parking areas. He submitted photos of the landscaping area for the Getty Station up the street as well as the landscaping that had been completed at his Sanford and Rochester locations. He explained that the plantings would be below three feet in height.

Mr. Will asked if part of the landscape area would be within a right-of-way. Mr. Holden replied that that was correct; that the City was willing to work with the applicant; that the City would keep its use of the right-of-way and that City ownership would be recognized.

Mr. Coker commented that he was quite familiar with the car wash. He spoke to the issue of the City's right-of-way. Mr. Holden explained that the islands are within the right-of-way. Mr. Fazekas spoke to his willingness to allow the City access to the right-of-way whenever necessary.

The Chair made a last call for speakers. There being none, the Public Hearing was closed.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Holden suggested a fifth condition – that the City should use as its model for the licensing agreement the one that was used for Gerald Taube and Goodwin Park so that the City is not reinventing the wheel. Mr. Carrier moved approval as submitted with the five stipulations. The motion was seconded and passed on a 9-0 vote.

Stipulations:

1. That the City Council should consider a request to use the City's right-of-way and that the Planning Board recommends such use provided it is subject to an annual License Agreement where the City may, at its discretion, require the removal of any obstruction within the right-of-way and at no cost to the City;
2. That Portland cement sidewalks be provided where indicated by the City's Transportation and Parking Engineer;
3. That NH DOT demonstrate its concurrence of this plan;
4. That interior travel aisles to be reviewed by the City's Transportation and Parking Engineer; and,
5. That the City should use as a model the licensing agreement between the City and Gerald Taube for Goodwin Park.

II APPROVAL OF MINUTES

A. June 28, 2001, July 19, 2001, and August 16, 2001, meetings

Mr. Hopley moved approval of the minutes as presented. Mr. Carrier seconded the motion. The motion passed on a 9-0 vote.

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III PUBLIC HEARINGS

A. Public comment is invited on proposed amendments to the *Zoning Ordinance* involving impact fees. Copies of the proposed amendments are available for review in the office of the Planning Department.

SPEAKING TO THIS AGENDA ITEM:

Planning Director David Holden stated that the Planning Department and Planning Board had been working on an impact fee ordinance in several work session modes and that this Public Hearing was a continuation of that process. The reason for the ordinance comes from a recent Supreme Court case, *Simonsen v. Derry* and from recent articles received from the New Hampshire Municipal Association and other planning agencies. The ordinance references NH RSA 674 regarding innovative land use controls. The model for the ordinance is based on those used in the municipalities of Lebanon and Bedford and the Upper Valley Planning Commission.

The proposed ordinance calls for an accounting of the funds, an appeal process and provides a definition. Mr. Holden went on to state that the Planning Board has dealt with site improvements; such as water, sewer, road improvements and impacts on schools and libraries. He informed the Board that impact fees cannot be used for such things as the acquisition of open space. The ordinance formalizes a procedure and requires that an impact fee be project specific and quantifiable.

Mr. Holden pointed out that the Planning Department and Planning Board have worked with developers regarding off-site improvements. It was his opinion that the Supreme Court case relates to towns with less adequate site regulations than Portsmouth's. He referred to it as "another arrow in a land use quiver".

The department reviewed some of the major projects involving site improvements; such as, Brora, the Tradeport, Griffin Park, the Foundation for Seacoast Health, Plaza 800 and Market Basket. Brora has incurred some \$710,000 in roadway improvements; such as, the traffic light on Woodbury Avenue, connecting a road through to Osprey Landing and providing a new access from Market Street to Osprey Landing.. Griffin Park has contributed to a traffic light on Route 33 which would be installed when the warrants are met. The Foundation for Seacoast Health provided a cul-de-sac and the realignment of the intersection with Route 1 plus contributing to the improvements on Peverly Hill Road. The City has been working with developers on Corporate Drive (the Tradeport) regarding sidewalks and improvements to the water lines. Ocean National Bank has contributed to an off-site improvement regarding the turning lane on Elwyn Road.

Mr. Holden spoke to a significant project in the Capital Improvement Plan which deals with the Bartlett Street/Islington Street intersection and the re-alignment of Jewell Court.

The intent is, as is with the *Site Review Regulations*, that there be cooperative relationships. In case of a challenge, the new ordinance would back up the procedure.

Ms. Tillman stated that the authority is out of the RSAs; that the proposed ordinance very closely follows those used in the municipalities mentioned and provides a framework for the Planning Board to work with and formalizes what the Board wants development to pay into the fund. The funds would be very closely monitored and would be associated with an identified project. Rational nexus would be applied; say, for any percentage of impact into a roadway system, or water system or additional school space. She went

on to state that it is a bare bones ordinance – simple to work with. The ordinance would become a part of Article XV of the *Zoning Ordinance*.

Mr. Will spoke to payment with in kind services; say, if Hewlett Packard built a computer facility, then they could satisfy their impact fee by providing a certain number of computers. Ms. Tillman thought that the concept was a very interesting one; however, she felt that State statutes define what municipalities can do.

Mr. Holden interjected that he felt that the Board could go too far adding that the subject is Site Review – infrastructure; such as, water, sewer, roads and trash – not designed to go out and grab other peripherals. Mr. Coker stated that to follow up on Mr. Will's point, that the ordinance does not specifically call for a monetary impact fee. Mr. Will commented that there may be some middle ground. Mr. Holden stated that he was going to draw the line; that the Board is not looking at computers but looking at infrastructure.

The Chair commented that if a project is creating a need for a traffic light, that the only thing that pays for a traffic light is money. However, Mr. Will's concept may be appropriate in some instances. It was Mr. Will's thought that a developer may want that option just as well as the Board.

Mr. Sullivan wondered if once the ordinance is approved and it becomes a regulation, would a developer know when he picks up an application, how much money the impact fee would be. Mr. Holden felt that the process would be a part of the Site Review process. Mr. Sullivan suggested a printed document should be available in the Planning Department office that stated that the development of a certain piece of property would cost x amount of dollars in impact fees.

Mr. Holden spoke to the necessity of reducing the number of challenges. Mr. Coker commented that if a developer disagreed, that it would just follow the normal procedure and end up in Court; that this ordinance was just another "tool in the tool kit".

Ms. Clews inquired as to the strengths and weaknesses of Options A and B regarding Purpose and Intent. Mr. Holden responded by stating that Option A basically lists the reasons why we are here and Option B really explains to the Planning Board why they are doing it. Mr. Coker felt that Option A was broader than Option B.

Attorney Peter Loughlin addressed the Board commenting that the present system has worked pretty well. He felt that Portsmouth was the leader in what it extracts from developers. He didn't think there had ever been a problem in that regard. As far as Option A and Option B were concerned, he felt that he would put both in and compared them to such things as belt and suspenders.

Attorney Loughlin referred to the second page of the proposed ordinance and the section under Authority. He commented that the Court said that the City doesn't have that authority without an impact fee ordinance. That being the case, he felt that it would be appropriate to go back and state the option of requiring the applicant to pay cash or to make off-site improvements. He suggested that such a change should be placed under B(1), third line. Furthermore, he suggested that the word, monetary, be included in Section D, Accounting and Sections E(1) and (2). He felt that it would be appropriate and wise to adopt the proposed ordinance.

Mr. Coker wondered if it would be fair to characterize Attorney Loughlin's suggestion to add the word, monetary, to appropriate locations as limiting the Board's ability with regard to off-site improvements. Attorney Loughlin responded by stating that there may be another word that could be used; that he wasn't trying to preclude what Messrs. Coker and Will were saying.

Mr. Will again referred to his idea of someone who would do something in kind. Attorney Loughlin reiterated that he wasn't trying to preclude anything; that he was trying to provide an opinion. The Chair thought that the whole process involved negotiations; that flexibility should exist.

The Chair made a last call for speakers. There being none, the Public Hearing was closed.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Coker felt that the word, monetary, would narrow the Board's scope. He felt that the words, impact fee, should be left as is. Mr. Smith stated that he agreed with and liked the idea that Mr. Will came up with; however, he would like to use the word, monetary, as a defining mechanism; that he was nervous about opening up the process in the ordinance; that the process would involve negotiations. He went on to state that he thought that Mr. Will's idea was a fabulous one and something to look at; however, he did not want it included in the realm of this ordinance.

Mr. Coker stated that he did not have any objection to putting in the word, monetary, as long as it did not preclude other types of impact fees; such as, computers. He felt that the word, monetary, did limit the scope. The Chair reiterated that the impact fee is a negotiating point.

The Board then returned to the issue of Options A and B. Mr. Jankowski felt that combining them was a good idea and suggested adding the word, therefore, at the end of Option A. Mr. Coker asked for assurances that the City Attorney would review the proposed ordinance to make sure that it wouldn't narrow the ability of the Planning Board in negotiating impact fees.

Mr. Will moved for approval of the impact fee ordinance and that it be forwarded to the City Council with a favorable recommendation for passage with the two options being combined and the inclusion of the words, monetary or off-site improvements. Mr. Smith seconded the motion. The motion passed on a 9-0 vote.

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B. The application of **Tucker's Cove Limited Liability** for property located **off Odiorne Point Road** wherein Preliminary and Final Approval is requested for lot line changes which would result in the following: Lot 10-001 would have a lot area of 123,846 s.f. ±; Lot 10-002 would have a lot area of 66,273 s.f. ±; Lot 10-003 would have a lot area of 51,124 s.f. ±; and, Lot 10-004 would have a lot area of 53,831 s.f. ±. All lots would have adequate continuous street frontage off Odiorne Point Road. Said property is shown on Assessor Plan 224 as Lots 10-001, 10-002, 10-003, and 10-004 and lies within a Single Residence A district. Plat plans are recorded in the Planning Department office as 15.1-01.

SPEAKING TO THE APPLICATION:

Dennis Moulton of Millette, Sprague & Colwell addressed the Board and stated that the proposal is a very simple one. He explained that ledge had been found on Lot B at the most conducive corner for providing a driveway to the site. To avoid doing a large amount of blasting, the request is to relocate a lot line about 20'. As adjacent lots were at or near the minimum frontage required, those lot lines had to be adjusted as well. The area in question is part of Phase III of the Tucker's Cove project. The houses have not been constructed at this point.

The Chair asked if all the existing and proposed lots were conforming as to area and frontage. Mr. Moulton replied in the affirmative. The Chair commented that the changes appeared to be pretty minor.

Mr. Holden stated that he assumed that with the proposed changes, there would be no need for Conditional Use or Wetland Approvals. Mr. Moulton replied by stating, "that is correct". The Chair asked if any Special Exceptions or Variances would be required. Mr. Moulton replied in the negative.

There being no further speakers, the Public Hearing was closed.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Carrier moved for approval as submitted with the stipulation that permanent boundary monuments be installed as per the regulations of the Public Works Department. Mr. Smith seconded the motion. The motion passed on a 9-0 vote.

C. The application of **Peter and Donna Splaine** for property located at **299 Bartlett Street** and 303 Bartlett Street wherein Preliminary and Final Approval is requested for a lot line verification plan wherein the following would occur: 299 Bartlett Street would have a lot area of 8,160 s.f. ±; and, 303 Bartlett Street would have a lot area of 6,240 s.f. ±. Said property is shown on Assessor Plan 162 as Lots 13 and 14 and lies within a General Residence A district. Plat plans are recorded in the Planning Department office as 16.1-01.

SPEAKING TO THE APPLICATION

Donna Splaine of 299 Bartlett Street addressed the Board. She was accompanied by Joseph Cunningham of 303 Bartlett Street. Ms. Splaine explained that the proposal before the Board is for a boundary verification adding that the two properties were one parcel at one time. If the Board approves the lot line verification, two deeds can be created which accurately depict the way the lots are being used. The Splaines and the Cunninghams are sole taxpayers of the property in question.

The Chair asked who prepared the summary that was included in the Board's packet. Ms. Splaine answered that she did. Mr. Holden commented that it is nice to be able to bring two neighbors together like this adding that this is a relief!

Mr. Coker asked if he was correct in understanding that the property in question is actually one lot. Ms. Splaine responded by stating that it is two lots according to the City's tax map.

Mr. Cunningham also spoke to the request stating that it would clean up who owns what. Mr. Coker stated that he wasn't sure that the Board could act on a boundary dispute. The Chair explained that there is no dispute; that the parties are here to agree; and that the request was as simple as that.

Mr. Sullivan inquired if the splitting of the lots would result in non-conforming lots. Mr. Holden felt that both lots would be more conforming. Mr. Sullivan spoke to the history of the property indicating that Julia Marinteau owned the property and that she lived on Woodbury Avenue.

Mr. Holden interjected that during the 1960s subdivision rules were different; that significant changes have been made in the ordinances; that the request is to recognize how the lots are being used and the property owners are in agreement.

In response to Mr. Coker's concerns, department staff assured him that the Martineau heirs had been notified of this hearing as they own property on Woodbury Avenue. The Chair commented that this is only a first step; that the Board is not taking away any rights and that anything the Board does would not take the place of a stamped, certified drawing.

In answer to Ms. Clews' question as to what is being verified, Mr. Cunningham stated that the changes have been there for quite some time; say, 30 to 40 years.

Mr. Coker asked if the Board had done lot line verifications before. The Chair responded by stating that they are not common but, on the other hand, they are not really rare.

There being no further speakers, the Public Hearing was closed.

DISCUSSION AND DECISION OF THE BOARD

Mr. Jankowski moved that Preliminary and Final Approval be granted subject to permanent boundary monuments being installed and a suitable plat being submitted. The motion was seconded. It was so voted.

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D. The application of **Joseph Arnstein** for property located **off Foch Avenue** wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* to allow the construction of a single-family home within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 233 as Lot 144 and lies within a Single Residence B district. Plans are recorded in the Planning Department Office as 08.1-01.

The Board, earlier in the meeting, acted to table the application to the October meeting of the Board.

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E. The application of **Bernard and Agnes Maxam** for property located **off Coach Road** wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* to allow the construction of a 9,100 s.f. building for office and manufacturing use within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 297 as Lots 4-3 and 4-3A and lies within an Industrial district. **(Withdrawn to 10/18/01)**

The Board, earlier in the meeting, acted to table the application to the October meeting of the Board.

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F. The application of the **Temple of Israel** for property located **off Banfield Road** wherein site plan approval is requested for the expansion of the Temple of Israel cemetery including the construction of a single lane driveway with associated site improvements. Said property is shown on Assessor Plan 256 as Lot 2-1 and lies within a Single Residence A district.

SPEAKING TO THE APPLICATION

Dennis Moulton of Millette, Sprague & Colwell explained that the property is located on Banfield Road adjacent to the existing cemetery. Originally, the idea was to provide access into the site; however, due to costs associated with ledge removal, it was decided to have a shorter access which would result in less impact on the site and much less ledge removal.

The request was reviewed by the Technical Advisory Committee (TAC) and the Conservation Commission with favorable recommendations from both. Mr. Moulton spoke to the conditions from TAC; such as, the drainage swale diverting runoff from the turnaround off site in a westerly direction and providing for the installation of a conduit across Banfield Road. Mr. Moulton indicated that he had already contacted a contractor and the work is scheduled regarding the conduit.

Mr. Moulton went on to state that only a few vehicles would be going on site at the time of a funeral; that other members of the procession would be parking their cars in the existing parking area adjacent to the cemetery. A chain link fence will surround the site. The entrance road will have an iron gate similar to the existing gate on the adjacent cemetery.

The Chair asked the anticipated length of time the site would serve its intended purpose with Mr. Moulton indicating that the site should serve the Temple for the next 150 years.

There being no further speakers, the Public Hearing was closed.

DISCUSSION AND DECISION OF THE BOARD

Mr. Smith moved to approve with the stipulations from the Technical Advisory Committee. Mr. Carrier seconded the motion. The motion passed on a 9-0 vote.

Stipulations from the Technical Advisory Committee:

- 1. That a 3" pvc conduit be installed prior to the overlay of Banfield Road;

- 2. That a note be added to the plan indicating that stormwater runoff from the cul-de-sac be deferred in a westerly direction toward the existing wetland and that the roadway be graded in such a manner that there will be no wash onto Banfield Road during heavy rains; and,
- 3. That the site plans be stamped.

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Let the record show that Public Hearings G and H were opened simultaneously.

G. The Portsmouth Planning Board, acting pursuant to NH RSA 12-G:13 and Chapter 500 of the Pease Development Authority Subdivision Regulations, will review and make a recommendation to the Board of Directors of the Pease Development Authority regarding the following: The application of **The Kane Company** for property located at **30 New Hampshire Avenue** wherein Preliminary and Final Approval is requested for the creation of an 8.26 acre lot ± with adequate continuous street frontage off New Hampshire Avenue. Said property is shown on Assessor Plan 299 and lies within the Airport/Business/Commercial district.

H. The Portsmouth Planning Board, acting pursuant to NH RSA 12-G:13 and Chapter 400 of the Pease Development Authority Site Review Regulations, will review and make a recommendation to the Board of Directors of the Pease Development Authority regarding the following: The application of **The Kane Company** for property located at **30 New Hampshire Avenue**, the site of the existing Ingersoll Rand Facility, wherein site plan approval is requested for the construction of two 16,000 s.f. two-story additions (8,000 s.f. footprint) to be constructed in two phases with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 299 and lies within the Airport/Business/Commercial district.

SPEAKING TO THE APPLICATION

Bob Duval of Kimball Chase addressed the Board on behalf of the applicant. An existing building exists along New Hampshire Avenue. The current address is 32 Exeter Street. The current driveway comes out on Exeter Street. The property immediately to the west has reverted back to the Pease Development Authority (PDA) for additional parking for the expanded use of the terminal facility. The PDA has already undertaken the creation of a new driveway coming out of New Hampshire Avenue.

Currently the existing building is used for research and light manufacturing with associated office space. Ingersoll Rand is temporarily using other facilities for engineering and production functions. The request is for new office space which would free up more room for production functions. The intent is to occupy the first phase; however, approval is being requested for the full 32,000 s.f. buildout in the hopes that Ingersoll Rand will need to build the second phase.

Some pavement will be trimmed back and turned into green space. The existing pavement will be striped to accommodate all required spaces. The additional green space will provide some level of stormwater treatment; such as, a vegetative filter strip. The proposal actually reduces the square footage of impervious area; thus, reducing stormwater runoff.

The existing sewer system will be upgraded. The drainage plan has been reviewed with David Desfosses, Engineering Technician with the Public Works Department, and he has agreed that the drainage scheme proposed will be beneficial.

The hydrant location is such as was recommended by Chief Plummer; that is, away from parking spaces. The 45' wide travel aisle has been striped and directional arrows provided.

With regard to sidewalks, Mr. Duval spoke to the potential provision of bikeways/pedestrian ways and stated that they are working with the City and the PDA on this matter. Mr. Duval further stated that Dave Allen, the Assistant Public Works Director, has agreed to review the condition of the existing sidewalks.

The snow storage areas have been identified. Discussion ensued on existing monitoring wells, Areas of Special Notice, and the relocation of propane/diesel tanks which are above ground tanks.

Mr. Carrier asked if the roof drains on the proposed expansion would tie into the main system with the response being in the affirmative. He then asked if the existing transformer would be removed once the new transformer is on line with the answer being in the affirmative. The question was asked what would happen with the relocation of the above ground fuel tank with the response being that the tank would be moved to a new location. The question was asked if the new lpg tank would be fenced in with the response being in the negative with the contingency that if fencing is required, it will be provided. Mr. Smith asked that the relocated dumpsters be fenced in.

The Chair had questions about the Wellhead Protection District and Areas of Special Notice. Mr. Duval explained that as part of the Air Force cleanup of the base prior to turnover, that extensive monitoring is done. The Air Force has conducted its review of this project and has determined that it will not cause any problems with regards to the base cleanup activities. There will be a minimal scratching of the surface, so to speak, as far as the installation of utilities and drainage systems are concerned. Mr. Duval went on to state that almost all properties located at the tradeport fall within the Wellhead Protection zone which means that particular care will be taken during construction regarding the possibility of spills and that emergency spill kits will be present on site at all times. Further discussion ensued on cleanup activities and the ability to determine any "positive" sites.

Mr. Sullivan turned the discussion to the wetland buffer zone required by the Pease Development Authority noting that the Authority does not recognize the 100' buffer required by the City. He spoke to salt tolerant trees being provided in the landscaping plan. He wondered if there was some way the Authority could stop using salt out there so that the Portsmouth Water Supply would not become contaminated. Mr. Holden suggested that if the Board would like, the City could communicate with Maria (Stowell) and Gerry (Dexter) and come back with information.

Mr. Coker stated that he is pretty cynical by nature; that the area was once the site of a motor pool and he envisioned the draining of oil with it being taken out back and dumped as a whole. Mr. Holden explained that when the base closed, practices such as the motor pool were addressed; that such a report could be obtained.

Mr. Hopley spoke to the proposed office space of 32,000 s.f. and asked if there would be a cafeteria. The response was that there is an existing cafeteria. Mr. Hopley asked if cooking facilities were available with the response being in the negative; that there are just warming facilities; that there is no intention of cooking.

There being no further speakers, the Public Hearing was closed.

DISCUSSION AND DECISION OF THE BOARD

Mr. Smith moved approval of the request contained in Public Hearing G with the one stipulation contained in the Planning Department memo. Mr. Carrier seconded the motion. The motion passed on a 9-0 vote.

Mr. Smith moved that the request contained in Public Hearing H be approved as presented with the stipulations from the memo and that fencing be provided around the dumpster area and the lpg tank as well, if necessary. Mr. Hopley seconded the motion. The motion passed on a 9-0 vote.

Stipulations:

From the Technical Advisory Committee:

1. That the drainage plan be reviewed to make sure it works;
2. That an overall plan be submitted indicating how this site fits in with the larger area;
3. That information be submitted to John Burke, the City's Transportation Engineer, as to the anticipated impact of peak hour traffic after it leaves the site;
4. That the landscaping plan include salt-tolerant trees;
5. That the relocated fire hydrant be located in an area where there is no parking;
6. That the travel aisle be striped so people will know where they are to drive; for example, one yellow stripe down the lane with some directional arrows;

- 7. That the condition of the existing sidewalks be reviewed and be replaced with Portland cement, if necessary;
- 8. That the applicant be willing to work with the Pease Development Authority and the City in exploring other options; such as, bikeways, in lieu of sidewalks;
- 9. That the site plan contain the appropriate locus map;
- 10. That the snow storage areas be identified; and,
- 11. That the catch basins be maintained on a regular basis.

From the Planning Board:

That fencing be provided around the dumpster area and the LPG tank, if necessary.

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IV. NEW BUSINESS

- A. 2300 Lafayette Road – Request to extend site plan approval

Mr. Holden explained that this was a first time request for an extension and should be automatically approved. Mr. Smith moved to approve the request. Mr. Sullivan seconded the motion. The motion passed on an 8-1 vote with Mr. Will voting in the negative.

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Informational:

- **Rockingham Superior Court decision in Jasand, Inc. vs. City of Portsmouth**

Mr. Holden advised the Board to read the decision and felt that it contained good case law. He reported that another action has followed asking for a clarification.

- **Municipal Law Lecture Series**

Mr. Holden commented that this time around the series is being held in Newmarket rather than Portsmouth.

- **Amended landscaping plan for 273 Corporate Drive**

Mr. Holden explained that Dick Millette has presented a plan with more native species addressing some of the salt concerns. Mr. Holden asked that Lucy Tillman be given authority to sign off on the plan. Mr. Smith so moved. Mr. Sullivan seconded the motion. The motion passed on a 9-0 vote.

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Adjournment was had at approximately 9:55 p.m.

Respectfully submitted,

Barbara B. Driscoll
Acting Secretary