

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, JANUARY 26, 2004

PORTSMOUTH, NH
TIME: 7:00PM

I. CALL TO ORDER

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

II. ROLL CALL

Present: Mayor Sirrell, Assistant Mayor Hanson, Councilors Grasso, Ferrini, Marchand, Pantelakos, Hynes, Raynolds, and Whitehouse.

III. INVOCATION

Mayor Sirrell asked for a moment of silent prayer in memory of Judge Alvin Taylor.

IV. PLEDGE OF ALLEGIANCE

Councilor Ferrini led in the pledge of allegiance to the flag.

PROCLAMATION

1. American Heart Month "Wear Red for Women Day" – February 6, 2004

Councilor Grasso read the Proclamation declaring February as American Heart month and February 6th as "Wear Red for Women Day."

2. American Red Cross Month

Assistant Mayor Hanson read the Proclamation declaring February as American Red Cross month.

PRESENTATION

1. Update on World War II Plaque – Elaine Hussey

Elaine advised the City Council the bronze memorial plaque for World War II will be on display at Goodwin Park and a dedication will be held in the spring. She also informed the City Council that the plaque would be permanently displayed at the new Library once it is built.

V. ACCEPTANCE OF MINUTES – DECEMBER 15, 2003 & JANUARY 5, 2004

Assistant Mayor Hanson moved to accept and approve the minutes of the December 15, 2003 and January 5, 2004 City Council meetings. Seconded by Councilor Grasso and voted.

VI. PUBLIC COMMENT SESSION

Harold Ecker said that the JFK building is well built and should be kept.

Clif Horrigan said that the library should be built at the JFK site. She believes that this is the best location for access to the public and great for the middle school.

Scott Hogan said that there are three encroachments on the Peirce Trust and suggests that the Attorney General speak on this issue.

VII. PUBLIC HEARINGS

A. PUBLIC INPUT REGARDING THE RENAMING OF PEARL STREET TO MARTIN LUTHER KING, JR. WAY

Mayor Sirrell read the legal notice and declared the public hearing open for speakers.

City Manager Bohenko said a report was received by the Planning Board and we are here to receive input from the public.

Raymond Will said that history is more than names and dates and feels that the street should be renamed in his honor.

Nate Holloway presented more petitions for the renaming of the street and urged that this be approved.

Charles Vaughn spoke in support of the renaming of the street and requested that the City Council support this.

Gene Hill Jr. spoke in support of the renaming of the street.

Margaret Britton spoke opposed because it affects the future and the building is on the national registry as the Pearl Street Church and urged not to change the street name.

Paul McEachern spoke in favor of the renaming as the street belongs to the people.

Dorothy Holloway spoke in support and that we need to be a part of history.

Jack McGee spoke in support, as that is where Dr. King spoke.

Peter Bresciano does not want Pearl Street renamed and suggested another street such as Greenland Road.

Bob Shouse spoke opposed and that this needs to be looked at practically. He believes street names should not just be changed as it effects history and there are other ways to honor Dr. King.

Gerry Zelin suggested giving the street a dual name and after time remove Pearl Street.

Jim Splaine suggested that dialogue continue on this matter with a committee to find the best way to recognize Dr. King.

Chris Loeder said as a resident of Pearl Street it has effected him. He said renaming a street is not the best way to recognize Dr. King and recommends creating a Martin Luther King trail.

Mayor Sirrell read a statement from Dennis Berounsky opposed to the renaming the street.

Ray Will said that the Planning Board does not easily recommend renaming streets and said a dual name street is not acceptable due to 911 regulations.

Nate Holloway agreed with Jim Splaine and the committee formation.

Margaret Britton said that the street name should not be changed.

Paul McEachern said that street names have been changed before.

Bob Shouse said that we need to maintain our history.

Chris Loeder suggested a plaque in honor of Dr. King on the church. He offered to pay for the plaque and would serve on the committee if the City creates one.

After three calls and no further speakers, Mayor Sirrell closed the public hearing.

- B. ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.330 – NO PARKING VAUGHAN STREET, NORTHERLY SIDE FROM NORTHWEST CORNER OF THE BUILDING AT 299 VAUGHAN STREET EASTERLY 20 FEET

Mayor Sirrell read the legal notice, opened the public hearing, and called for speakers.

Assistant Mayor Hanson explained that this is a 20-foot setback for visibility.

After three calls and no speakers, Mayor Sirrell closed the public hearing.

- C. ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.330 – NO PARKING SUBSECTION A REGARDING PORTER STREET

Mayor Sirrell read the legal notice, opened the public hearing, and called for speakers.

Assistant Mayor Hanson explained that this is for emergency vehicle access.

After three calls and no speakers, Mayor Sirrell closed the public hearing.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to City Cultural Commission - \$5,000.00

Councilor Grasso moved to accept the \$5,000 donation for the City Cultural Commission. Seconded by Councilor Whitehouse and voted.

- B. Acceptance of Police Department Donations for the Honor Guard
- Gallagher's Awards and Trophies - \$35.00
 - Irving Oil Corporation - \$100.00
 - Kiwanis Club of the Seacoast - \$50.00
 - JCM Management Company, Inc. - \$125.00

Councilor Ferrini moved to approve and accept the donations to the Portsmouth Police Department as listed. Seconded by Councilor Pantelakos and voted.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Proposed Resolutions to Increase Veterans' Tax Exemptions

- A.1. Veteran's Tax Credit

Councilor Hynes explained the resolutions. City Attorney Sullivan advised that Mayor Sirrell, Councilors Grasso, Hynes, and Whitehouse should not vote on A.1 however all Councilors may vote on the remaining items.

Mayor Sirrell passed her gavel to Assistant Mayor Hanson.

Councilor Pantelakos moved to pass first reading of the resolution and schedule a public hearing and adoption on this matter for the February 9, 2004 City Council meeting. Seconded by Councilor Ferrini.

Councilor Marchand asked the City Manager about other communities with similar tax credits. City Manager Boehnko responded with the names of communities that have these tax credits in place. He said that these credits would be phased in gradually. Councilor Marchand expressed concern because of the impact on the tax rate.

Councilor Reynolds said that taxes effect everyone in the City and shares Councilor Marchand's concerns.

Councilor Pantelakos felt that taxpayers would not be upset with this exemption.

Assistant Mayor Hanson explained he is eligible to receive the credit but does not receive it.

Motion passed with Mayor Sirrell, Councilors Grasso, Hynes and Whitehouse abstained from voting.

A.2. Disabled Veteran's Tax Credit

Councilor Pantelakos moved to pass first reading of the resolution and schedule a public hearing and adoption on this matter for the February 9, 2004 City Council meeting. Seconded by Councilor Hynes and voted.

A.3. Surviving Spouse (Veteran's) Tax Credit

Councilor Hynes moved to pass first reading of the resolution and schedule a public hearing and adoption on this matter for the February 9, 2004 City Council meeting. Seconded by Councilor Grasso and voted.

Assistant Mayor Hanson passed the gavel back to Mayor Sirrell.

- B. Second reading of Ordinance amending Chapter 7, Article III, Section 7.330 - No Parking Vaughan Street, northerly side from northwest corner of the building at 299 Vaughan Street easterly 20 feet

Assistant Mayor Hanson moved to pass second reading of amended ordinance, as submitted, and schedule a third and final reading at the February 9, 2004 City Council meeting. Seconded by Councilor Pantelakos and voted.

- C. Second reading of Ordinance amending Chapter 7, Article III, Section 7.330 - No Parking subsection A regarding Porter Street

Assistant Mayor Hanson moved to pass second reading of amended ordinance, as submitted, and schedule a third and final reading at the February 9, 2004 City Council meeting. Seconded by Councilor Grasso and voted.

X. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATIONS AND PETITIONS

- A. Letter from David Reese, Cystic Fibrosis Foundation, requesting permission to hold the Seacoast Safari for CF Bicycle Tour on Saturday August 7, 2004 – August 8, 2004

Councilor Pantelakos moved to refer to the City Manager with power. Seconded by Councilor Grasso and voted.

- B. Letter from Donald Allison, Eastern States 20 Mile, requesting permission to hold the Eastern State 20 Mile Road Race on Sunday, March 28, 2004

Councilor Grasso moved to refer to the City Manager with power. Seconded by Councilor Pantelakos and voted.

- C. Letter from Stacey Rogers, The Seacoast Repertory Theatre, requesting permission to hold the annual Bow Street Fair on Saturday, July 17, 2004 and Sunday July 18, 2004

Assistant Mayor Hanson moved to table for a report back from the City Manager with a recommendation. Seconded by Councilor Grasso.

Councilor Whitehouse suggested using meter bags on Daniel Street for Bow Street residents to park at the time of the event.

Motion passed.

- D. Letter from Diane Burch, Chamber of Commerce, requesting permission to hold the 9th annual Portsmouth Harbour Trail 5K Road Race on Saturday, July 10, 2004

Councilor Hynes moved to refer to the City Manager with power. Seconded by Councilor Grasso and voted.

- E. Petition from residents of Patriots Park regarding the traffic on Lafayette Road

Assistant Mayor Hanson said that this matter was brought forward to Traffic and Safety. The committee sent this matter to the Department of Transportation for review.

Assistant Mayor Hanson moved to accept and place the letter on file. Seconded by Councilor Whitehouse and voted.

- F. Request from Carolyn O'Connor, Corks & Curds LLC, to place 1 A-frame sign on Commercial Alley

Councilor Marchand moved to refer to the City Manager with power. Seconded by Councilor Pantelakos and voted.

- G. Letter from James Stankiewicz, Muscular Dystrophy, requesting permission to hold the annual Trans NH Bike Ride on Sunday, June 27, 2004

Councilor Raynolds moved to refer to the City Manager with power. Seconded by Councilor Grasso and voted.

- H. Letter from Margaret Britton opposed to the renaming of Pearl Street

Councilor Grasso moved to accept and place the letter on file. Seconded by Councilor Ferrini and voted.

I. Letter from Attorney Scott Hogan regarding Peirce Trust

Councilor Hynes moved to accept and place the letter on file. Seconded by Councilor Ferrini.

Councilor Whitehouse requested that this letter be read into the record.

Councilor Grasso said that Attorney Hogan addressed his letter during the public comment session.

Councilor Hynes moved to read the letter into record. Seconded by Councilor Whitehouse. On a roll call 8-1 vote, motion *failed* to pass. Councilor Whitehouse voted in favor. Assistant Mayor Hanson, Councilors Grasso, Ferrini, Marchand, Pantelakos, Hynes, Reynolds and Mayor Sirrell voted opposed. Main motion passed with Councilor Whitehouse opposed.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Request for Approval of the Five-Year Agreement with the Supervisory Management Alliance (SMA)

City Manager Bohenko requested approval of the agreement.

Councilor Grasso moved to approve the five-year agreement commencing July 1, 2003 through June 30, 2008 with the Supervisory Management Alliance. Seconded by Councilor Hynes and voted.

2. Request for First Reading Re: Proposed Amendment to the City's 1995 Zoning Ordinance, Articles I and IX (Illumination and Motion of Signs)

City Manager Bohenko explained the need for this ordinance. City Attorney Sullivan said the City does not promote flashing signs for safety and aesthetic purposes.

Councilor Hynes moved to authorize the City Manager to bring forward at the February 9, 2004 City Council meeting a first reading on this ordinance amendment as recommended. Seconded by Councilor Pantelakos.

Assistant Mayor Hanson asked if existing signs would be grandfathered. City Attorney Sullivan said yes.

Motion passed.

3. Request to Renew Lease of 251 Bartlett Street by the Creek Athletic Club

City Manager Bohenko requested approval of the lease.

Assistant Mayor Hanson moved to authorize the City Manager to extend the Lease with the Creek Athletic Club for the property at 251 Bartlett Street for a period of April 1, 2004 through March 31, 2005. Seconded by Councilor Ferrini and voted.

4. Report Back from Planning Board Re: Request from Steven McHenry, Architect, to Use a Portion of the Ceres Street Right of Way for Property Located at 51 Ceres Street

City Manager Bohenko explained that the steps would terminate on City property and noted the Planning Board's recommendation.

Councilor Ferrini moved to authorize the City Manager to work with the Legal Department to draft a license to allow Ms. Wendy Klodt of 51 Ceres Street to build a custom metal stair that will terminate on City property and bring back the license for final approval. Seconded by Councilor Grasso.

Assistant Mayor Hanson requested a clause to the lease to fund an adopt a spot location.

Councilor Whitehouse suggested that sidewalks be updated on that street.

Motion passed.

At 9:25 p.m., Mayor Sirrell declared a recess and called back to order at 9:30 p.m.

5. Proposed Peirce Estate Recreational and Environmental Charitable Trust

City Manager Bohenko went through the history of this matter and provided a map. He said that the middle school and the public use parking on the land. This encroachment was discovered and because of this, it may be necessary in the future for the City to acquire by condemnation the right to continue to use these parking areas as well as the gymnasium within the restricted area. The entire parcel of the JFK/Armory is outside of the Peirce Trust. The City would be responsible to correct the encroachment on the Peirce Trust that now exists with the parking for the Middle School and the Middle School gymnasium. The City Attorney has been working with the Attorney General's Office to resolve this issue. The Attorney General's Office and the City have tentatively agreed upon the creation of a Peirce Estate Recreational and Environmental Charitable Trust to be administered by the Trustees of Trust Fund. This proposal would be to determine the value of the encroachment on the Peirce Trust through a qualified appraiser.

City Attorney Sullivan discussed his conversation with Terry Knowles of the Attorney General's Office on this matter. She is cooperating with the City to correct this encroachment. He said we need to authorize the City Council to move forward. City Manager Bohenko asked the City Council to pass his recommended motion on this matter.

Councilor Raynolds move to authorize the City Manager to proceed in conjunction with the Charitable Trust Unit of the Office of the Attorney General to develop a recreational and environmental trust to serve as a repository for any funds which the City might be obligated to pay on account of the use of property restricted by the deed from Joseph W. Peirce, et als for purposes inconsistent with that restriction. Seconded by Councilor Grasso.

Councilor Raynolds said that this is workable solution. He spoke to some language within the trust document that he would like to see removed. City Attorney said he was contemplating any needs the City Council may have and felt that language was need. He said placing that language in the trust does nothing, the only way a future incursion could incur is through eminent domain through the City Council.

Councilor Pantelakos said that language should remain within the document.

Councilor Whitehouse spoke opposed to the motion. He said that the City should not break trusts. He said that people would be concerned with leaving items to the City because they could break their trust as well.

City Manager Bohenko said that the City is responsible for correcting this encroachment now, whether or not a library is built at the location.

Councilor Ferrini said that these are separate issues between the encroachment and the library and the language should remain as is in the trust.

Mayor Sirrell passed her gavel to Assistant Mayor Hanson.

Mayor Sirrell asked what would happen to the residents on Richards Avenue that have encroached upon the trust.

City Attorney said that the Attorney General's Office would deal with the private citizens.

Councilor Pantelakos said a great deal of time has been wasted by trying to make everyone happy with the building of a new library. City Manager Bohenko said that we have added another year to the construction of the library with the 106 process.

On a roll call vote 8-1, motion passed. Mayor Sirrell, Councilors Grasso, Ferrini, Marchand, Pantelakos, Hynes, Raynolds and Assistant Mayor Hanson voted in favor. Councilor Whitehouse voted opposed.

B. MAYOR SIRRELL

1. Donations to the Coalition Legal Fund

Mayor Sirrell moved to accept contributions from the Town of Newington for \$2,500, the Town of Jackson for \$1,000, the Town of Waterville Valley for \$2,000, and the Town of North Hampton for \$1,000 to be placed in the Coalition Legal Fund. Seconded by Councilor Pantelakos and voted.

Assistant Mayor Hanson passed the gavel back to Mayor Sirrell.

2. Establish Work Session regarding Assessments

Mayor Sirrell said she would like to establish a work session to discuss assessments on February 2, 2004 at 6:30 p.m. City Manager Bohenko suggested holding the work session in the Council Chambers.

The City Council agreed to hold a work session regarding assessments on February 2, 2004 at 6:30 p.m. in the City Council Chambers.

3. Resignation from Library Board of Trustees & Save the Old State House Committee

Assistant Mayor Hanson moved to accept with regret the resignation of Lee Lorusso from the Library Board of Trustees. Seconded by Councilor Grasso and voted.

Councilor Hynes moved to accept with regret the resignation of David Adams from Save the Old State House Committee. Seconded by Councilor Pantelakos and voted.

4. Appointments

The City Council considered the following appointments to be voted on by the City Council at the February 9, 2004 City Council meeting: Valerie Cunningham, Nackey Scagliotti, Robert Scagliotti, Margaret Sofio, Richard Adams and David Ewing to the Mayor's Blue Ribbon Committee on Cemeteries; reappointment of John Sullivan to the Planning Board; reappointment of Ronald Cypher, Frederick Gray, Jr., Herbert Bunnell, and Ralph DiBernardo to the Traffic & Safety Committee; Barbara McMillon as an alternate to the Conservation Commission; and William Gladhill to the Economic Development Commission.

C. COUNCILOR GRASSO

2. Request for City Manager to Report Back Re: Parking Impact Fee Ordinance with recommendations at the February 9, 2004 City Council meeting

Councilor Grasso moved to request the City Manager to report back at the March 1, 2004 City Council meeting regarding the Parking Impact Fee Ordinance with recommendations. Seconded by Councilor Pantelakos and voted.

1. Update on Joint Building Committee

Councilor Grasso reported that the new construction is near completion. She said that furniture would be delivered in February and students should occupy the new area in March. She announced that a ribbon cutting would be held on Friday, February 20, 2004 with a more formal ceremony scheduled later.

XIII. ADJOURNMENT

At 10:20 p.m., Councilor Whitehouse moved to adjourn. Seconded and voted.

KELLI L. BARNABY, CITY CLERK