

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, OCTOBER 3, 2005

PORTSMOUTH, NH  
TIME: 7:00 PM

At 6:30 p.m., a Work Session was held with Tom Carroll presenting a video to the City Council showing the scrap metal operations at the Port Terminal.

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

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

### **II. ROLL CALL**

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

### **III. INVOCATION**

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

### **IV. PLEDGE OF ALLEGIANCE**

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

### **MAYOR'S AWARDS**

1. Seacoast Shipyard Association and the Save Our Shipyard Task Force

Mayor Sirrell presented Mayor's Awards to members of the Seacoast Shipyard Association and the Save Our Shipyard Task Force for their efforts in getting the Portsmouth Naval Shipyard removed from the base closure list.

### **PROCLAMATIONS**

1. Captain Bill McDonough, USN (Retired)

Councilor Whitehouse read the Proclamation in recognition of Captain McDonough's efforts in saving the Portsmouth Naval Shipyard from closure. Mayor Sirrell presented the Proclamation to Captain McDonough who accepted it with thanks and appreciation.

2. City Year New Hampshire

Assistant Mayor Grasso read the Proclamation in recognition of City Year New Hampshire and this fine program. Mayor Sirrell presented the Proclamation to Pawn from City Year New Hampshire who accepted it with thanks and appreciation.

## **PRESENTATIONS**

1. Presentation and Acceptance of Donation to the New Library Building Fund from Service Credit Union

Cliff Taylor, on behalf of the Service Credit Union, presented Mayor Sirrell with a check in the amount of \$25,000.00 for the New Library Building Fund.

Assistant Mayor Grasso moved to approve and accept the donation in the amount of \$25,000.00 to the New Library Building Fund from Service Credit Union as presented. Seconded by Councilor Pantelakos and voted.

2. Presentation on Proposed Joint Development Agreement Re: Parking Garage and Conference Center/HarborCorp (Sheraton Hotel)

City Manager Bohenko introduced Steve Griswold and members of his development team. Steve provided a brief synopsis of the proposal for the Sheraton Hotel with the addition of a conference center. He reviewed the plans for the parking garage and pictures of the project with the City Council. He urged the City Council to support the agreement and moving forward with the project.

Councilor Ferrini moved to suspend the rules in order to take up Item XI. A.1. – Proposed Joint Development Agreement Re: Parking Garage and Conference Center/Harborcorp (Sheraton Hotel) following the Public Comment Session. Seconded by Councilor Pantelakos and voted.

## **V. ACCEPTANCE OF MINUTES – SEPTEMBER 12, 2005**

Councilor St. Laurent moved to approve and accept the minutes of the September 12, 2005 City Council meeting. Seconded by Assistant Mayor Grasso and voted.

## **VI. PUBLIC COMMENT SESSION**

Ralph DiBernardo spoke in support of the present parking impact fee. He discussed the benefit of the fee and where the funds go. He said the \$1,200.00 fee is not unreasonable but may be difficult to a small business owner. He urged the City Council not to lower the fee.

Dick Ingram, Chamber of Commerce, spoke in support of the conference center for the Sheraton Hotel. He urged the City Council to support the project and said that Mr. Griswold is and will continue to be a good partner with the City. He submitted a statement of support to Mayor Sirrell from Fred Kocher.

Larry Yerdon, Strawberry Banke, spoke in support of the Sheraton project and conference center. He urged the City Council to support this project.

Doug Coombs, Ocean National Bank, spoke in support of the conference center project at the Sheraton Hotel. He said that this is a great economic prospect for the City of Portsmouth.

Everett Eaton, Economic Development Commission Vice Chair, said that the Economic Development Commission supports the Sheraton project. He said that there is a great need for a conference center in the City and urged the City Council to support the project.

Proposed Joint Development Agreement Re: Parking Garage and Conference Center/Harborcorp (Sheraton Hotel)

Councilor Ferrini moved to authorize the City Manager to negotiate a Joint Development Agreement with Harborcorp for approval by the Council at its next meeting on October 17, 2005. Seconded by Assistant Mayor Grasso.

Councilor Ferrini said he would like to review the agreement with City Attorney Sullivan prior to the next City Council meeting. City Manager Bohenko advised the City Council that they would receive the agreement prior to the City Council meeting for review and the discussion can be part of the public meeting. He said if the agreement is approved by the City Council we would need to come back to the Council with a bonding resolution for the construction of the parking garage.

Councilor Whitehouse suggested that the City Council receive a plot plan of the area. City Manager Bohenko said that questions relative to the plot plan are more appropriate for the land use agencies.

City Attorney Sullivan said that the project would need to comply with the land use regulations and Councilor Whitehouse's questions should be brought up in that forum.

Motion passed.

## **VII. PUBLIC HEARING**

### **A. ORDINANCE AMENDING CHAPTER 10, ARTICLE II, SECTION 10.202 – LOCATION (2005 ZONING MAP)**

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

City Manager Bohenko said that the map addresses aesthetics in terms of readability for easy use.

City Attorney Sullivan said that there are no substance changes to the map.

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

## VIII. APPROVAL OF GRANTS AND DONATIONS

- A. Acceptance of Donations to the New Library Building Fund
- Benjamin J. Swainbank & Christine M. Bastianelli - \$200.00
  - New Hampshire Glass - \$250.00
  - Boynton, Waldron, Doleac, Woodman and Scott, P.A. - \$1,500.00

Councilor Pantelakos moved to approve and accept the donations to the New Library Building Fund as listed. Seconded by Assistant Mayor Grasso and voted.

- B. Acceptance of Donations to the Cemetery Committee
- Anonymous - \$53.00
  - Charles V. & Louise H. Tallman - \$300.00

Councilor Whitehouse moved to approve and accept the donations to the Cemetery Committee as listed. Seconded by Councilor St. Laurent and voted.

- C. Acceptance of Donations to Art-Speak for Lamson Peace Treaty Photo Exhibit
- RMC/Chris Dwyer - \$1,500.00
  - Portsmouth Regional Hospital - \$500.00
  - Piscataqua Savings Bank - \$500.00
  - Lamson Family - \$500.00
  - Olde Parish Townhouses, KWRE - \$500.00
  - Galley Hatch Restaurant, Portsmouth - \$250.00
  - Old Port Properties - \$250.00
  - Kathy Walsh Real Estate - \$250.00

Assistant Mayor Grasso moved to accept the donations to Art-Speak for the Lamson Peace Treaty Photo Exhibit, as listed. Seconded by Councilor Hynes and voted.

- D. Acceptance of Donation for Maple Haven Park/Playground Improvements - \$260.00

Councilor Pantelakos moved to accept the donation in the amount of \$260.00 from Maple Haven Neighborhood to be used for the Maple Haven Park/Playground Improvement project. Seconded by Councilor St. Laurent and voted.

- E. Acceptance of Police Department Grants
- Operation Street Sweeper Grant - \$127,602.00
  - Bureau of Justice Assistance Grant - \$6,768.00
  - Portsmouth Red Light Running Grant - \$3,101.40
  - Portsmouth Enforcement Patrols Grant - \$3,101.40
  - Portsmouth Smart Radar Grant - \$5,358.50

Councilor Ferrini moved to approve and accept the grants to the Portsmouth Police Department as listed. Seconded by Assistant Mayor Grasso and voted.

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

- A. First reading of Ordinance amending Chapter 7, Article XI, Section 7.1100 – Speed Limits – Hillcrest Drive and Woodlawn Circle – 20 MPH

Councilor Hynes moved to pass first reading of the amended ordinance, as submitted, and hold a public hearing and second reading at the October 17, 2005 City Council meeting. Seconded by Councilor St. Laurent and voted.

- B. Second reading of Ordinance amending Chapter 10, Article II, Section 10.202 – Location (2005 Zoning Map)

Assistant Mayor Grasso moved to pass second reading of the amended ordinance, as submitted, and hold a third and final reading at the October 17, 2005 City Council meeting. Seconded by Councilor Pantelakos and voted.

- C. Third and final reading of Ordinance amending Chapter 1, Article IV, Section 1.40 – Cable Television and Communications Commission

Councilor Reynolds moved to pass third and final reading of the amended ordinance, as submitted. Seconded by Assistant Mayor Grasso and voted.

- D. Third and final reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Green Street: both sides from Russell Street to Vaughan Street

Councilor Whitehouse moved to pass third and final reading of the amended ordinance, as submitted. Seconded by Assistant Mayor Grasso and voted.

## **X. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATIONS AND PETITONS**

- A. Letter from Yolanda Hoyne to Governor Lynch requesting the installation of a stop light at the entrance to Patriots Park Apartments

Councilor Pantelakos asked if there was anything the City could do about this issue. City Manager Bohenko said the Council should petition the State to look into this matter.

Councilor Pantelakos moved to request Mayor Sirrell send a letter to Governor Lynch requesting that the Department of Transportation review this traffic issue. Seconded by Councilor Ferrini and voted.

- B. Letter from Damon Redmond, Exchange City, requesting permission to erect a sign on city property located at 25 Granite Street

Councilor St. Laurent moved to refer to the Planning Board for a report back. Seconded by Assistant Mayor Grasso.

Councilor Whitehouse said he would like a stipulation as part of the recommendation, that if the business no longer exists that the sign would be removed.

Motion passed.

- C. Letter from Attorney Bernard Pelech regarding the Discontinuance of Falkland Way

Councilor Whitehouse moved to refer to the Planning Board for a report back. Seconded by Councilor St. Laurent and voted.

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

### **A. CITY MANAGER**

- 2. Proposed License Agreement Re: Ricci Construction, Deer Street

City Manager Bohenko said that Ricci Construction requires a license to continue the work at 22-28 Deer Street. He advised the City Council that the work should be completed no later than November 30, 2005.

Councilor Pantelakos moved to authorize the City Manager to enter into a revocable license agreement with Ricci Construction for City property in front of 22-28 Deer Street. Seconded by Councilor Whitehouse and voted. Assistant Mayor Grasso abstained from voting.

- 3. Transfer of License Agreement to Bill Shutt and Ronald Frye, Operators of Banana's Bar & Grill

City Attorney Sullivan advised the City Council that the license agreement with Banana's was not transferred to the new owners. He said that the license is not assignable without written consent of the City Council. He reported that the owners were required to pay a fee under the license agreement, which has not been done. He advised the City Council that the outstanding balance is \$9,500.00, which the owners have agreed to pay. He also advised the City Council that he has been informed that another transfer of the restaurant operation may be forthcoming. He said such transfer should not take place without the City Council issuing a similar approval for the new operators.

Councilor Pantelakos moved to transfer the license agreement to Bill Shutt and Ronald Frye, operators of Banana's Bar and Grill provided that all license fees in arrears are paid. Seconded by Councilor Hynes.

City Manager Bohenko advised the City Council that there is a system in place to track this agreement and other such items.

Motion passed.

4. Establish Work Session for Performance/Operational Audits

City Manager Bohenko advised the City Council that they need to establish a date for a Work Session to continue the discussion of performance/operational audits.

Mayor Sirrell said she would like to delay this Work Session until after the election.

Councilor Pantelakos said that the new City Council does not take effect until January 2006 and we will be starting our budget process in January therefore, we need to hold this Work Session as soon as possible.

Councilor Pantelakos moved to hold a Work Session on November 10, 2005 following the Canvass of the Vote regarding Performance/Operational Audits. Seconded by Councilor St. Laurent and voted.

5. Report Back Re: Kenneth and Deborah Smith Request Regarding Land Adjacent to their property at 298 Myrtle Avenue

City Manager Bohenko said that the Planning Board has reviewed this matter and is recommending that the request be referred to the School Board for a report back. He also reviewed the other stipulations as part of the recommendation of the Planning Board.

Planning Board's Recommendations:

1. *That the land be offered for sale subject to the following:*
  - *That the sale of the land encumbered by the stonewall only shall be approved by the School Board;*
  - *That in their consideration, the School Board should consider what, if any impact, this request would have on compliance with minimum State site standards;*
  - *That the City Assessor shall determine the fair market value of the subject land area;*
  - *That the Applicant shall bear the cost of preparing the necessary subdivision plat and associated documentation; and*
  - *That the City shall approve the request;*
  - *That if the Council approves this request, the Planning Board recommends that the subject area involved in this transfer should be rezoned from the Municipal to the Single Residence B district [requires an ordinance change to the adopted Zoning Map].*
2. *In the event that the first recommendation cannot be completed, then, the stonewall shall be removed from City property.*

Councilor St. Laurent moved to refer this matter to the School Board for a report back. Seconded by Councilor Whitehouse.

City Attorney Sullivan reported that this matter would come back to the City Council following the report of the School Board.

Motion passed.

6. Economic Development Commission Review of Parking Impact Fee

City Manager Bohenko reported that a subcommittee of the Economic Development Commission reviewed the City's parking impact fee in the spring of 2004, which at that time, was \$500.00 per parking space for unmet parking need. He said that the subcommittee reviewed parking impact fees in other communities and received input from City business owners as well as an assessment of the average cost to construct a covered parking space and the potential impacts of various parking fee revisions on large and small developments in the Central Business District. Based on their review, the subcommittee recommended that the parking impact fee be increased to \$1,200.00 per parking space. The subcommittee further recommended that the fee be reviewed and updated no less than every five years. The City Council voted to adopt the recommendation of the subcommittee in January of this year, and increase the fee to \$1,200.00 per space. He reported in recent months a number of business owners have raised concerns regarding the effects of the fee on the City's small businesses. He said based on this it may be appropriate to review the effects the fee has had on the City's small businesses and, if merited, consider options to address any negative effects.

Councilor Hynes moved to refer this matter to the Economic Development Commission to review the effects of the parking impact fee on the City's small businesses and report back to the Council with a recommendation regarding any potential revisions to the parking impact fees. Seconded by Councilor St. Laurent.

Councilor Ferrini spoke in support of the motion and urged small businesses to come forward and discuss their concerns with the Economic Development Commission.

Councilor Marchand said he would like to consider the timing of the fee by a small business as part of this. He said there are times when cash flow is an issue for small businesses and the subcommittee should consider addressing that issue in their review and recommendation.

Motion passed.

**B. MAYOR SIRRELL**

1. Donations to the Coalition Legal Fund

Mayor Sirrell passed the gavel to Assistant Mayor Grasso.

Mayor Sirrell moved to accept \$500.00 from the Town of New Castle and \$1,500.00 from the Town of Sunapee to be placed in the Coalition Legal Fund. Seconded by Councilor Pantelakos and voted.

Assistant Mayor Grasso returned the gavel to Mayor Sirrell.



2. Appointments/Resignation – Economic Development Commission & Taxi Commission

The City Council considered the appointment of John Connors to the Traffic & Safety Committee. This appointment will be voted on by the City Council at the October 17, 2005 meeting.

Assistant Mayor Grasso moved to reappoint Calvin Couch to the Portsmouth Endowment Fund until June 17, 2008. Seconded by Councilor Whitehouse and voted.

Mayor Sirrell reported that she received a letter of resignation from Betty Sanford, Chair of the Taxi Commission. She requested that the City Council to act on this matter this evening.

Assistant Mayor Grasso moved to accept with regret the resignation of Betty Sanford from the Taxi Commission. Seconded by Councilor Pantelakos and voted.

Councilor Hynes moved to accept with regret the resignation of Scott Pafford from the Economic Development Commission. Seconded by Councilor St. Laurent and voted.

**XII. MISCELLANEOUS/UNFINISHED BUSINESS**

Councilor St. Laurent asked City Manager Bohenko due to EEE if we were spraying around the ballfields as a precaution. City Manager Bohenko said that we are spraying areas in the City that are of a concern.

City Clerk Barnaby announced that absentee ballots are currently available in the Office of the City Clerk for the November 8, 2005 Municipal Election.

**XIII. ADJOURNMENT**

At 8:50 p.m., Councilor Whitehouse moved to adjourn. Seconded and voted.



Kelli L. Barnaby, CMC  
City Clerk