

CITY COUNCIL WORK SESSION

Proposed River Walk

Monday, September 25, 2006 - 5:30 p.m.

Proposed River Walk Area

City Council Present: Mayor Marchand, Councilors Grasso, Dwyer, Raynolds, Pantelakos, Whitehouse, and Smith

City Council Absent: Assistant Mayor Ferrini and Councilor Hynes

Officials Present: John P. Bohenko, City Manager; Cindy Hayden, Deputy City Manager, and Bob Snover, Appledore Engineering

I. Call to Order

Mayor Marchand called the meeting to order at 5:35 p.m. A site walk of the proposed river walk was held.

At 6:15 p.m., Councilor Pantelakos moved to recess the meeting and reconvene in the Council Chamber. Seconded by Councilor Grasso and voted.

CITY COUNCIL WORK SESSION

Water Rate Ordinance

Monday, September 25, 2006 - 6:30 p.m.

Council Chambers

City Council Present: Mayor Marchand, Assistant Mayor Ferrini, Councilors Grasso, Dwyer, Raynolds, Pantelakos, Whitehouse, Smith and Hynes

Officials Present: John P. Bohenko, City Manager; Robert Sullivan, City Attorney; Suzanne Woodland, Assistant City Attorney; Gail Cunningham, Controller; David Allen, Deputy Public Works Director; Peter Rice, Engineer

I. Call to Order

Mayor Marchand reconvened the meeting at 6:30 p.m. and turned the meeting over to City Manager Bohenko.

II. Introduction

City Manager Bohenko stated that David Allen, Deputy Public Works Director and his staff had prepared a PowerPoint presentation on the proposed water rate ordinance. He stated that the PowerPoint presentation would be posted to the website after the meeting. City Manager Bohenko turned the meeting over to David Allen.

III. Presentation - Water Rate Ordinance

David Allen, Deputy Public Works Director spoke on the issues surrounding the proposed water rate ordinance. He stated that the proposed ordinance will be put on the web site. David Allen stated that the purpose of the Water & Sewer Rate Study was to review and update rate structure

and rates, assure sustainable water resources and water & sewer systems, assure equitable sharing of water and sewer costs and to assure capability to pay for needed improvements and operations. David Allen stated that the study recommended a new rate structure including: a two-step rate structure, higher rates for second meter irrigation and elimination of free water allowance; a new water connection fee; maintaining reserves at approximately 25% of costs and adopting a water ordinance to replace the tariff. Suzanne Woodland, Assistant City Attorney stated that the City currently regulates by tariff. She stated that the tariff defines the relationship between the user and the supplier; it covers connection, service and maintenance issues and defines rates and fees. Assistant City Attorney Woodland stated the advantages of an ordinance vs. the tariff. She stated that with an ordinance, updated to water system regulatory documents will reflect current law, the ordinance will be a better enforcement tool, the ordinance will incorporate sustainability and conservation goals, centralize water regulations under one ordinance, be easier to administer with better public awareness and all fees and rates will become part of the annual budget process. David Allen went on to explain the impact on the budget process. He stated as an example, the fire protection rates and minimum meter service fees are specified in the tariff. He stated that these rates and fees have not changed since 1988. He further stated that under the ordinance, all water related rates and fees will be evaluated annually as part of the budget and fee committee process. David Allen went on to explain how the ordinance would deal with City growth. He explained that new users will continue to pay for site specific improvements – readiness to serve costs. He stated as an example that during the site review process, a developer may be required to install a larger service pipe. He went on to state that in addition; new users will now pay a capacity use surcharge as part of the connection fee. He stated that the new water connection fee with surcharge will be a one-time charge for new connections. He said that the fee assessed will be proportionate to the proposed impact of the new connection and be based on a formula to be consistently applied. He went on to state that the new water connection fee with surcharge will be used to help pay for capital projects related to growth. David Allen stated that the formula to be used for the capacity use surcharge would be based on the projected average daily flow of the new user and it would employ a multiplier to generate funds to be used for capital improvement necessary to serve future users. He stated that the multiplier will be established as part of the rate setting process and will be updated periodically. David Allen stated that our existing customers will see few changes, although the ordinance does permit more frequent billing which will be an advantage to the average customer who typically budgets monthly. He further stated that some customers may be affected by conservation and sustainability provisions such as those related to irrigation systems.

IV. Questions and Discussion

Mayor Marchand thanked David Allen for the presentation and stated that he appreciated the job Public Works does for the City.

City Manager Bohenko stated that the ordinance will keep the City on a path for the 2008 budget. He stated that the important points to reiterate from the PowerPoint presentation are first, sustainable practices – we are trying to have those who use the water pay for it. He stated that the City is trying to address the issue of readiness to serve in accordance with a defensible formula – we want to be consistent.

Councilor Dwyer asked if the connection fee would be implemented immediately. City Manager Bohenko stated that it would. Councilor Dwyer also requested if the City was looking into

differential rates for communities that are not in Portsmouth. David Allen stated that they did take a look at this and after talking with PUC they found out that they could only charge new customers in those communities and only up to 15% more. He stated that this could get awkward just from a tracking standpoint. City Manager Bohenko stated that there was a major water user in Newington that the City actually negotiated a large connection fee with. David Allen stated that they looked up the company's impact to the flow coming down into that area. He stated that in addition to doing some major up grades to the piping system, they also had to put in a system that would allow the meter reader to get the information by telephone rather than having to go to the site to read the meter. Councilor Dwyer asked if the City would charge a higher rate or negotiate on new connections in outlining communities. City Manager Bohenko stated that with large users that would impact the system it would be looked at on a case by case basis, but what the City wants to get to is something for high impact companies. Councilor Dwyer asked what the City would do if we have a new large user in a community outside of City of Portsmouth. City Manager Bohenko stated that we would put a provision in the ordinance that would allow the City the opportunity to deal with extenuating circumstances. Assistant City Attorney Woodland stated that they are working on the ordinance and trying to make it uniform. She stated that the new ordinance has a section that deals with extensions of the main line and it states that the City can decide if it is not in the interest of the utility or the customers we serve, the City does not have to extend the system.

Assistant Mayor Ferrini said looking at the main pipe extensions and that issue, can we be compelled to do anything by another regulatory body other than what we decide. Assistant City Attorney Woodland stated that the City is not regulated by the PUC and this gives the City more leeway. She stated that the City is not regulated by the PUC in part because our rates are flat and so, right now, the City is not under that jurisdiction and therefore, some of the regulations and statutes do not apply to Portsmouth.

Councilor Smith asked if with the time schedule in mind, does the City have to take this to the other communities and provide a presentation. City Manager Bohenko stated that we do not, because we treat all customers in other communities the same as our customers within the City. Councilor Smith asked if we know what other communities have in mind for growth that may be of concern to the City. David Allen stated that they periodically visit other communities to see what they are planning. He also stated that any out of town customer would be looked at very closely.

Councilor Pantelakos asked if she was right in stating that a company that the City has agreements with, we can not refuse them water rights. City Manager Bohenko stated that we would have to ask, "Do we have the capacity to serve them?" He stated that would be the key. He further stated that if we do not have the capacity to serve them, we could charge them X number of dollars for them to assist us in looking for new sources or let them know that we can not assist them now, but will in the future if we find other capacities. Councilor Pantelakos asked if we have the right to deny them even though we have an agreement with them. City Manager Bohenko stated that we do not have any responsibility to put our system in jeopardy for our existing customers.

Councilor Dwyer requested if the thresholds for the tiers are set in the ordinance or is that something we'd set as part of the fee. David Allen stated that it would likely be defined in the fee structure. Mayor Marchand asked if that would be something that would be adjusted through the fee process and not an ordinance change. City Manager Bohenko stated that that was correct.

Councilor Whitehouse stated that this is the right move, but are we a little too late. He stated that the Council agreed to allow Packard Development in Greenland to enter our system. He asked if even though they haven't broken ground yet, will this ordinance affect them. Assistant Attorney Woodland stated that they anticipate that they will be subject to the water ordinance and will have to pay the connection fee just like everyone else. City Manager Bohenko stated that the City has negotiated a fee with Packard Development which will still be in place. Councilor Whitehouse requested if on future developments that have already been through the land regulatory boards and has started the process if the City would also be able to use this ordinance. David Allen stated that the building permit does not get filed until they have gone through a site review. City Manager Bohenko stated that it has been 25 years since the City has looked at the whole system. He stated that the City wants to do it right and we want it to be defenseable. He stated that hopefully the City will capture those developments that need to be captured. He further stated that the City does have individual agreements with the larger users.

Councilor Raynolds thanked David Allen and applauded the incorporation of these principles into our new ordinance, such as the decreasing block rate for users and capacity use surcharge. He asked why we might not have more than a two tiered rate structure. He further asked why we wouldn't go to 3 or 5 tiers using the principal that those who use more pay more. David Allen stated that that could happen in the future. He stated that there is a thin line between what gets you the bang for the buck and what is more complicated to run. City Manager Bohenko stated that when making a change, we want to be able to walk before we run. He stated that over time this could happen as people become more aware of the rate structure and understand the concept behind what we are trying to do. He stated that there needs to be a lot more public education before the City gets to what Councilor Raynolds is saying, but ultimately it can happen. Councilor Raynolds stated that a surcharge will induce the customer to maximize the efficiency of their use. He stated that design and new construction is where the opportunity is to set the usage rate for all future occupants. He asked if there might be a way to tier that to the point where you make it cost effective for building owners and developers to make these investments in the building such as rain water collection, energy conservation to name a few. David Allen stated that there are some things that the City is doing to that end. City Manager Bohenko stated that again, it is going to take public education. He stated that many people utilize their irrigation systems in excess of what they need to utilize. He further stated that the City is going to have to do a combination of implementing this ordinance plus a lot of public education.

Mayor Marchand stated that Councilor Raynolds mentioned that perhaps in the future we could add more tiers, would this be within the structure of changes to fees or ordinance changes. David Allen stated that because this would be a fee, that it would be a fee change. Mayor Marchand also asked how often such a multiplier is used in other communities here and nationally. He requested if this is a common practice. Dave Allen stated that it is quite common and the methodology used in the proposed ordinance is one that was recommended by the consultants and is one of the standard methods used.

Councilor Whitehouse asked what the impact would be on the budget process. He stated that people budget on a monthly basis. He requested if there was any thought on basing the fee increase relating to the tax increase. He asked if it was possible that on a year that there is a large tax increase to allow the water rate to remain stable for that year. City Manager Bohenko stated that they do look at that. He stated that the City staff look to see if there is going to be a

spike in the tax rate, they try to be very cautious about the water and sewer rates. Councilor Pantelakos stated that the City Council can either deny or approve all rate changes. City Manager Bohenko stated that that is correct. He stated that all rates have to be approved by the Council.

Councilor Raynolds stated that referring to the potential use of the funds that are generated, does the City have uses for these funds along the lines of the parking impact fees and could one of the uses be to do things that subsidize customers along the lines of the utility for water conservation or energy efficiency programs. City Manager Bohenko stated that they would have to be capital in nature. Councilor Raynolds asked if the City could have a program where we would subsidize the installation of water conservation systems. City Manager Bohenko stated that it is possible to do that.

City Manager Bohenko stated that it is set to bring this issue on for first reading at the October 16, 2006 City Council meeting.

Mayor Marchand thanked David Allen and his staff for the great presentation.

V. Adjournment

At 7:30 p.m., Mayor Marchand closed the meeting.

Respectfully submitted by:

Dianne M. Kirby, Deputy City Clerk