

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, DECEMBER 4, 2006

PORTSMOUTH, NH  
TIME: 7:00PM [or thereafter]

At 6:00 p.m., an Anticipated “Non-Meeting” with Counsel was held – RSA 91-A:2 I (c).

The 6:30 p.m. Work Session with City of Keene Officials regarding Cities for Climate Change was not held.

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

Mayor Marchand called the meeting to order at 6:55 p.m.

### **II. ROLL CALL**

Present: Mayor Marchand, Assistant Mayor Ferrini, Councilors Grasso, Dwyer, Raynolds (7:05 p.m.), Pantelakos (7:45 p.m.), Whitehouse, Smith and Hynes

### **III. INVOCATION**

Mayor Marchand asked everyone to join in a moment of silent prayer in memory of Thomas Fogarty who recently passed away.

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

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

Assistant Mayor Ferrini moved to suspend the rules in order to take up Item VII. – Approval of Grants and Donations. Seconded by Councilor Grasso and voted.

### **VII. APPROVAL OF GRANTS AND DONATIONS**

- A. Acceptance of Donations to the New Library Building Fund
- Sean, Aidan & Rosy Caughran - \$1,000.00

Councilor Grasso moved to approve and accept the donation to the New Library Building Fund as listed. Seconded by Councilor Dwyer and voted.

- B. Acceptance of Donations for the USS Hartford Dinner
- The American Legion - \$250.00
  - Comcast - \$500.00
  - Poco's Bow Street Cantina - \$1,000.00

Councilor Whitehouse moved to approve and accept the donations to the USS Hartford Dinner as listed. Seconded by Councilor Grasso and voted.

- C. Acceptance of Donation for a Bench in Memory of Herbert E. Bunnell in the amount of \$500.00

Councilor Smith moved to approve and accept the donation for a bench in memory of Herbert E. Bunnell, as listed. Seconded by Councilor Grasso and voted.

- D. Acceptance of Donation to the Portsmouth Fire Department from the Portsmouth Regional Hospital for the Firefighter Monument in the amount of \$1,000.00

Councilor Hynes moved to approve and accept the donation to the Fire Department for the Firefighter's Monument, as listed. Seconded by Councilor Dwyer and voted.

Assistant Mayor Ferrini moved to suspend the rules in order to take up Item IX. – Consent Agenda. Seconded by Councilor Smith and voted.

## **IX. CONSENT AGENDA**

### ***A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA***

- A. Acceptance of Anonymous Donations to the New Library Building Fund in the amount of \$750.00 (***Anticipated action – move to approve and accept the donations to the New Library Building Fund as listed***)
- B. Acceptance of Donations to the New Library Building Fund
- Randy S. Durling & Ialeen Purington- Durling - \$20.00
  - Joseph A. & Judith A. Capobianco - \$25.00
  - Maryka Ford & Dennis Casey - \$25.00
  - R.B. Cole - \$25.00
  - Rachel A. Connell & Bruce McEldowney - \$25.00
  - Stephen & Greta Munton - \$25.00
  - J. Newcorn - \$25.00
  - Mary Ann Record - \$25.00
  - Jacqueline N. Kingsford - \$30.00
  - James A. & Barbara M. Batten - \$35.00
  - John F. & Patricia L. Donohue - \$50.00
  - Hilda W. Fleisher- \$50.00
  - Lydia S. Coggeshall- \$50.00
  - Donna Novelli & Lawrence C. Barr - \$50.00
  - Robert & Carolyn E. Gardner - \$50.00
  - Janet A. Taylor Revocable Trust - \$50.00
  - Suzanne S. Hopkins - \$50.00
  - Patricia K. & John J. Novello - \$50.00
  - Sarah S. Cullen - \$50.00
  - John Benford & Kendra Ford - \$75.00
  - Portsmouth Neuropsychology Center, LLC - \$87.00

- Michele J. McCarthy Trustee, The Michele J. McCarty Revocable Trust - \$100.00
- Laura L & Richard M. Burbine - \$100.00
- Patricia A. Koenig & Brenda J. Schure - \$100.00
- Heinz K. Sauk-Schubert - \$100.00
- Dr. Peter M. & Jennie C. Dinnerman - \$100.00
- Suzanne & Philip Knowlton - \$100.00
- Hilda Fleisher - \$150.00
- Mr. & Mrs. Paul Kelley and Sister Aubrie - \$250.00 (*Total pledge \$500.00*)
- Craig Hood & Amy Brnger - \$250.00
- Donahue, Tucker & Ciandella, PLLC - \$500.00
- Judith A. Giles - \$500.00

***(Anticipated action – move to approve and accept the donations to the New Library Building Fund as listed)***

- C. Letter from Tracy Poland, American Diabetes Association, requesting permission to hold the Tour de Cure on Sunday, May 6, 2007 ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from Jen Hallee, City Year, requesting permission to hold the fifth annual “Martin Luther King Day March of Justice” on Monday, January 15, 2007 ***(Sample motion – move to refer to the City Manager with power)***

Assistant Mayor Ferrini moved to adopt the Consent Agenda as presented. Seconded by Councilor Smith and voted.

### **PROCLAMATION**

1. Human Rights Day – Peter Somssich

Councilor Dwyer read the Proclamation declaring December 10, 2006 as Human Rights Day. Mayor Marchand presented Peter Somssich with the Proclamation who accepted it with thanks and appreciation.

### **MAYOR’S AWARD**

1. Award Winning Harp Player – Zachary Adinolfi

Mayor Marchand presented Zachary with a Mayor’s Award in honor of him finishing as one of the top harp players in the World during a recent competition held in Ireland. Zachary performed for the City Council and thanked Mayor Marchand and the City Council for this honor.

## **PRESENTATIONS**

1. Presentation of Donation to the New Library Building Fund Re: Naming Opportunities Parade Hotel Investors, LLC - \$5,000.00 (additional pledge of \$10,000.00) for the naming of the 2<sup>nd</sup> floor meeting room for the Hilton Garden Inn (*This donation was accepted by the City Council at the November 13, 2006 meeting*)

Jeff Johnston spoke to the donation to the New Library Building Fund from the Parade Hotel Investors, LLC for the naming of the 2<sup>nd</sup> floor meeting room for the Hilton Garden Inn. Library Director List expressed her sincere appreciation to Hilton Garden Inn for their generous donation.

2. Acceptance of Donations to the New Library Building Fund Re: Naming Opportunities
  - The Partnerships of the Kane Company, S & S Hotels, Katz Development and Kane RD, LLC for \$50,000.00 for the naming of the café

Library Director List spoke to this generous donation from the Partnerships of the Kane Company for the naming of the internet café at the new Library. She thanked the Partnerships of the Kane Company for this generous donation which is being accepted with thanks and appreciation.

- Susan and Robert Thoresen for \$2,500.00 with an additional pledge of \$5,000.00 for the naming of the Production Center

Library Director List spoke to the generous donation from Susan and Robert Thoresen for the naming of the Production Center. She thanked Mr. & Mrs. Thoresen for their generous donation.

- Jean E. Sawtelle for \$5,000.00 for the naming of the Fiction Reading Bay - First Floor

Attorney Paul McEachern representing Jean Sawtelle spoke to her donation for the naming of the Fiction Reading Bay on the First Floor. He advised the City Council that this donation is being made in memory of her husband Joe Sawtelle. Library Director List expressed her thanks to Mrs. Sawtelle for this generous donation.

- Jay McSharry for \$5,000.00 for the naming of the Fiction Reading Bay 3

Library Director List spoke to the generous contribution made by Jay McSharry the owner of Jumpin' Jays Fish Café for the naming of the Fiction Reading Bay 3. She thanked Mr. McSharry for his donation which is greatly appreciated.

- Bob and Denise Shaines for \$5,000.00 for the naming of the Administrative Office Suite

Mr. Shaines spoke to his and his wife's donation of \$5,000.00 for the naming of the Administrative Office Suite. Library Director List thanked Mr. & Mrs. Shaines for their generous donation which is greatly appreciated.

Former Library Trustee Phyllis Eldridge said that on behalf of the New Library Building Committee she would like to extend her sincere appreciation and thanks to all of those who have contributed towards the new Library.

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

3. The Mayor's Blue Ribbon Committee on Board and Commission Appointment Process Report regarding Turnover on City Boards and Commissions – Eric Spear (*See Attached Report*)

Eric reported that Mayor Marchand created the Mayor's Blue Ribbon Committee on Board and Commission Appointment Process to create a balance of encouraging "fresh blood" and healthy turnover into city's boards and commissions while retaining interested, engaged, and responsible long-term members. He spoke to the institutional knowledge and continuity that is essential to any well run board, especially with land use boards. He said that the Board is concern with excessive lengths of service that can result in diminished effectiveness, stale thinking, and a sense of entitlement, all of which are unhealthy for the board and the city. Eric advised the City Council of the Committee's two recommendations:

- **Recommendation 1: Provide Data to Council Members**

Currently, board members are appointed by the Mayor and confirmed by a vote of the City Council. However, City Council members have very limited information on which to make their decisions. The Committee proposed to supplement the packet that each member gets so that in addition to the appointee's application, the City Council would also get a list of all of the members of the board and the years they served.

- **Recommendation 2: Term Limits**

The Committee hope that, with the additional information provided to the City Council, the city's boards and commission will have a healthy mix of turnover and experience. However, the Committee understands that there are cases where, for a mix of politics and inertia, members end up staying on boards too long.

With that in mind, the Committee recommends that there be an upper limit on the number of terms someone can serve uninterrupted on a given board. Here are the details:

1. There are no limits for alternates
2. The term limit clock begins with a person's first appointment as a regular member
3. They are welcome to serve the City on other boards
4. They are welcome to apply to their board after sitting out for a term

Here are the boards and limits that are being recommended:

Building Code Board of Appeals	3 terms	15 years
Cable Commission	4 terms	11 years
Conservation Commission	5 terms	15 years
Economic Development Commission	3 terms	12 years
Historic District Commission	5 terms	15 years
Planning Board	5 terms	15 years
Portsmouth Housing Authority	3 terms	15 years
Housing Endowment Fund Board	5 terms	15 years
Recreation Board	3 terms	9 years
Taxi Commission	5 terms	10 years
Traffic & Safety Committee	5 terms	10 years
Trustees of Trust Funds	5 terms	15 years
Zoning Board of Adjustment	4 terms	20 years

In closing, Eric advised the City Council that Boards and Commissions in Portsmouth have varied legal foundations. Some are created by the Mayor and serve at his or her pleasure. Others are subject to City Charter, changeable by an act of City Council. Finally, some, while municipal in scope, are created by State law. The Committee is suggesting that the City Council empower the City Legal Department to research the above boards and commissions to find out the necessary steps to implement the term limits.

Councilor Whitehouse moved to empower the City Legal Department to research the above boards and commissions to find out the necessary steps to implement the term limits. Seconded by Assistant Mayor Ferrini.

City Manager Bohenko said a great deal of work would need to take place in order to research this matter and suggested discussing this at a future City Council meeting to see if it is the consensus of the City Council to have this matter researched.

Assistant Mayor Ferrini suggested holding a work session on this matter.

Councilor Whitehouse withdrew his motion and Assistant Mayor Ferrini his second to the motion.

Mayor Marchand advised the City Council that a date would be established for a work session relative to this matter in the future.

Assistant Mayor Ferrini said that the Committee should be notified of the work session for them to be in attendance if they choose. City Manager Bohenko said that a suggested date for a work session would be brought forward at the December 18, 2006 City Council meeting.

Councilor Dwyer spoke in favor of holding a work session on this matter. She said we do not want to look at term limits out of context.

Assistant Mayor Ferrini said that land use boards require longer terms and lead time to learn the committee.

Councilor Whitehouse asked if the City has considered holding a job fair for boards and commissions.

#### **V. ACCEPTANCE OF MINUTES – NOVEMBER 13, 2006**

Councilor Smith moved to approve and accept the minutes of the November 13, 2006 City Council meeting. Seconded by Councilor Dwyer and voted.

#### **VI. PUBLIC COMMENT SESSION**

Bobby Kessler, City Year, spoke regarding the fifth annual “Martin Luther King Day March of Justice” being held on Monday, January 15, 2007. He invited the City Council to attend this event which will begin at the Portsmouth Middle School.

John Tabor, Kim O’Connell, Leo and Laurie Gagnon, John spoke on behalf of the group regarding the affordable housing ordinance. He said that there is a need for changes to create more affordable housing in the City. He suggested creating study circles to review these issues which could create a better climate throughout the neighborhoods and community.

Assistant Mayor Ferrini moved to suspend the rules in order take up Item XI. A.3. - Request to Extend the Lease Agreement for Poco Diablo, Inc. to Expire November 1, 2007. Seconded by Councilor Smith and voted.

XI. A.3. Request to Extend the Lease Agreement for Poco Diablo, Inc. to Expire November 1, 2007

City Manager Bohenko said that this would extend the lease agreement for Poco Diablo, Inc. until November 1, 2007. He advised the City Council that the staff would report back in the spring on long term issues.

Councilor Whitehouse moved to extend the Poco Diablo Lease Agreement until November 1, 2007. Seconded by Councilor Smith and voted.

## VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance amending Chapter 10, Article XV of the Ordinances by the Adoption of a New Section 10-1508 entitled Residential Density Incentive Planned Unit Development (RDI-PUD) Ordinance; Addition of Definitions to Article 1, Section 10-102A of the Zoning Ordinance

Councilor Dwyer moved to pass first reading and schedule a public hearing and second reading on the proposed Residential Density Incentive Planned Unit Development (RDI-PUD) Ordinance at the December 18, 2006 City Council meeting. Seconded by Councilor Smith.

Councilor Smith spoke concern relative to covenants and the need to ensure that they are in place long enough to maintain the exterior building design of the houses. City Attorney Sullivan said that the language within the ordinance was to allow flexibility by the developer. City Manager Bohenko advised the City Council that staff would be present at the December 18, 2006 City Council meeting to make a presentation.

Motion passed.

Assistant Mayor Ferrini moved to suspend the rules in order to take up Item XI. A.4. - Request to Extend License Agreement for Trash Compactor on Ceres Street. Seconded by Councilor Smith and voted.

- IX. A.4. Request to Extend License Agreement for Trash Compactor on Ceres Street

City Manager Bohenko said that this is for an extension of the license agreement for the trash compactor between the City and the owners of the Old Ferry Landing, Poco Diablo and the Stockpot restaurants. He advised the City Council that the new license agreement would expire on November 30, 2007. City Manager Bohenko announced that there is a provision in the extension that indicates on or about July 1, 2007 he be authorized to meet with the licensees to consider possible alternate arrangements for disposal of solid waste by the licensees and to take those actions necessary to bring about future use of the licensed area by the City for public purposes.

Councilor Grasso moved to extend the License Agreement between the City of Portsmouth and Old Ferry Landing, Inc., Poco Diablo, Inc. and Stockpot, Ltd. for the period December 1, 2006 through November 30, 2007.

- B. Third and final reading of Ordinance by the creation of a Chapter 16, Utilities, Article I, Water Ordinance; the Deletion in the entirety of Chapter 11, Article IX, Section 11.9 – Cross Connection Control and Back Flow Prevention, amending Chapter 13, Article VII, Section 13.7 – Water Supply, and amending Chapter 14, Article I, Section 14.103 – Services, Equipment, Facilities for Plumbing

Councilor Smith moved to pass third and final reading of the amended ordinances, as submitted. Seconded by Councilor Whitehouse and voted.



**X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Letter from Julie Slayton Frank, South Church, requesting permission to place dumpster in the alley between South Church and the building that houses Upscale Resale

Assistant Mayor Ferrini moved to refer to the City Manager with power. Seconded by Councilor Whitehouse and voted.

- B. Request from Helen Marks, Spiritual Readings by Duchess to relocate A-frame sign to new location in front of establishment

Councilor Pantelakos moved to refer to the City Manager with power. Seconded by Assistant Mayor Ferrini.

Councilor Whitehouse expressed concern with the placement of the sign. City Manager Bohenko said he would review this matter with the Zoning Officer.

Motion passed.

- C. Letter from Marie Fulvi regarding pedestrian safety at the crossing of Route 1 and Peverly Hill Road

Councilor Hynes moved to refer to the Traffic & Safety Committee for report back. Seconded by Councilor Pantelakos and voted.

- D. Letter from Helen Taft, Executive Director, Families First on behalf of Community Campus, requesting permission to replace the small "Community Campus" signs currently posted on several roads with a larger sign that lists the name of each of their agencies

Assistant Mayor Ferrini moved to refer to the Planning Board for report back. Seconded by Councilor Grasso and voted.

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

**A. CITY MANAGER**

1. Regulation of Formula Businesses in the Historic District, Regulation of Amusement Parks/Outdoor Recreation in the Industrial & General Business Districts

City Manager Bohenko said in October the City Council met in a work session with the Planning Board on the implementation of the Master Plan. He said as a result of that work session, both Assistant Mayor Ferrini and Councilor Smith requested that City staff provide a zoning ordinance amendment that would have the effect of regulating the location and operation of formula businesses within the Historic District. He said that this matter would need to be referred to the Planning for a report back.

Councilor Smith moved to refer these two matters to the Planning Board for a report back. Seconded by Councilor Grasso and voted.

2. Membership to the International Council for Local Environmental Initiatives (ICLEI)

City Manager Bohenko advised the City Council by joining the Cities for Climate Protection Campaign the City must become a member of ICLEI, which the membership dues for a City the size of Portsmouth are \$600.00 per year. He recommended that the City Council vote to expend the \$600.00 from contingency funds. He also advised the City Council that we are attempting to get a grant for an intern to assist with these issues.

Councilor Grasso moved to expend \$600.00 from contingency funds for payment of annual dues to ICLEI. Seconded by Councilor Smith and voted.

5. Request for Approval of Strawberry Banke Easement

City Manager Bohenko advised the City Council that approvals have been received from the Planning Board and an easement is needed to install in the public right-of-way necessary foundation insulation, drains and roof overhangs.

Councilor Pantelakos moved to authorize the City Manager to negotiate and execute an easement in favor of Strawberry Banke for foundation and other improvements authorized by the Planning Board. Seconded by Assistant Mayor Ferrini and voted.

6. Proposed Acceptance of Brigham Lane as a City Street

City Manager Bohenko advised the City Council that the Public Works Department has inspected the construction of this roadway and finds that it meets all City standards and requirements.

Councilor Pantelakos moved to accept Brigham Lane as a City street as recommended by the Public Works Department. Seconded by Councilor Smith and voted.

Informational Items

1. Work Session Re: Legislative Delegation

City Manager Bohenko announced that the City Council will hold a work session on Monday, December 11, 2006 at 6:30 p.m. in the City Council Chambers with the Portsmouth Legislative Delegation.

2. Update on Library Donations

City Manager Bohenko advised the City Council that the total donations to the New Library Building Fund are \$633,547.47, as of November 28, 2006.

**B. MAYOR MARCHAND**

1. Appointment to be Considered:

- Appointment of Gary Lowe – Cable Television Communications Commission Alternate Member
- Reappointment of Jerry J. Hejtmanek – Planning Board
- Reappointment of Anthony Coviello – Planning Board
- Reappointment of Alain R. Jousse – Zoning Board of Adjustment
- Reappointment of Duncan MacCallum – Zoning Board of Adjustment
- Reappointment of Arthur E. Parrott – Zoning Board of Adjustment

The City Council considered the appointment of Gary Lowe as an alternate to the Cable Television Communications Commission, the reappointment of Jerry Hejtmanek and Anthony Coviello to the Planning Board, the reappointment of Alain Jousse, Duncan MacCallum and Arthur Parrott to the Zoning Board of Adjustment. The City Council will vote on these appointments at the December 18, 2006 City Council meeting.

2. Appointments to be Voted:

- Reappointment of Everett Eaton – Economic Development Commission
- Appointment of Robert M. Haft – Mayor's Blue Ribbon Dog Committee
- Appointment of William Gindele – Save the Old State House Blue Ribbon Committee
- Appointment of James Horrigan – Conservation Commission from Alternate to Regular Member

Councilor Whitehouse moved to reappoint Everett Eaton to the Economic Development Commission until October 1, 2010. Seconded by Councilor Smith and voted.

Councilor Grasso moved to appoint Robert Haft to the Mayor's Blue Ribbon Dog Committee. Seconded by Councilor Pantelakos and voted.

Councilor Pantelakos moved to appoint William Gindele to the Save the Old State House Blue Ribbon Committee. Seconded by Councilor Grasso and voted.

Councilor Dwyer moved to appoint James Horrigan from an alternate to a regular member of the Conservation Commission filling the unexpired term of Charles Cormier until April 1, 2009. Seconded by Councilor Grasso and voted.

**C. COUNCILOR SMITH**

1. Traffic & Safety Committee Action Sheet and Minutes of the November 9, 2006 and November 21, 2006 meetings

Councilor Smith moved to approve and accept the action sheet and minutes of the November 9, 2006 Traffic & Safety Committee meeting. Seconded by Councilor Pantelakos and voted.

Councilor Smith moved to approve and accept the action sheet and minutes of the November 21, 2006 Traffic & Safety Committee meeting. Seconded by Councilor Grasso.

2. Parking Committee Action Sheet and Minutes of the November 3, 2006 and November 9, 2006 meeting

Councilor Smith moved to approve and accept the action sheet and minutes of the November 3, 2006 Parking Committee meeting. Seconded by Assistant Mayor Ferrini.

Councilor Whitehouse said he read this report with interest. He said that the Parking Study is a complex issue and would like to see items come before the City Council in a work session before the recommendations are implemented. City Manager Bohenko said that this was a work session of the Parking Committee and these items would come back to the City Council for further discussion.

Motion passed.

Councilor Smith moved to approve and accept the action sheet and minutes of the November 9, 2006 Parking Committee meeting. Seconded by Assistant Mayor Ferrini.

Councilor Smith spoke to the action by the Parking Committee to change the Wright Avenue Lot from two hour parking to four hour parking. He also spoke to the horse and carriage parking space on Pleasant and Congress Streets. He said this matter was tabled until the next meeting to allow review by the Police Department.

Motion passed.

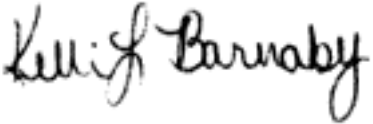
**XII. MISCELLANEOUS/UNFINISHED BUSINESS**

Councilor Whitehouse asked Councilor Pantelakos on the status of the report back from the Dog Committee. Councilor Pantelakos advised Councilor Whitehouse that the Dog Committee has not had an opportunity to meet but she would be scheduling a meeting in the future in order to provide a report back to the City Council.

Councilor Dwyer announced that Heather Hurtt of the Mayor's Blue Ribbon Committee on Building Re-use would be providing a presentation to the City Council at the December 18, 2006 City Council meeting.

**XIII. ADJOURNMENT**

At 8:10 p.m., Councilor Whitehouse moved to adjourn. Seconded by Councilor Pantelakos and voted.

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

Kelli L. Barnaby, CMC  
City Clerk