

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, FEBRUARY 12, 2007

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

At 6:30 p.m., an Anticipated "Non-Meeting" with Counsel was held regarding Negotiations – RSA 91-A:2 I (c).

I. CALL TO ORDER

Mayor Marchand called the meeting to order at 7:05 p.m.

II. ROLL CALL

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

Absent: Councilor Pantelakos

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

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

PROCLAMATIONS

1. Read Across Portsmouth Day

Councilor Grasso read the Proclamation declaring February 23, 2007 as Read Across Portsmouth Day. Councilor Grasso presented the Proclamation to Linda Marconi who accepted it with thanks and appreciation.

2. American Red Cross Month

Councilor Dwyer read the Proclamation declaring March as American Red Cross Month. Councilor Dwyer presented the Proclamation to Karen Vinciguerra McCarthy who accepted it with thanks and appreciation.

PRESENTATION

1. Mimi White, Poet Laureate – What Is Home

Ms. White presented the City Council with a book of poetry from various authors entitled *What Is Home*. Ms. White also read a poem from the book to the City Council in recognition of Valentine's Day.

V. ACCEPTANCE OF MINUTES – JANUARY 22, 2007

Councilor Whitehouse moved to approve and accept the minutes of the January 22, 2007 City Council meeting. Seconded by Councilor Grasso and voted.

Assistant Mayor Ferrini moved to suspend the rules in order to take up Item XI. A.1. – Approval of Tentative Five (5) Year Agreement for Police Chief Michael Magnant. Seconded by Councilor Grasso and voted.

XI. A.1. Approval of Tentative Five (5) Year Agreement for Police Chief Michael Magnant

Assistant Mayor Ferrini moved to approve this five (5) year agreement to expire on January 3, 2013 with Michael J. Magnant, Police Chief, as presented. Seconded by Councilor Smith.

City Manager Bohenko reviewed the highlights of the contract which would expire January 3, 2013.

On a unanimous roll call vote 8-0, motion passed.

Assistant Mayor Ferrini moved to suspend the rules in order to take up Item X. A. – Letter from Kathie Lynch, Portsmouth Little League, Inc., requesting permission to place temporary signage at the Plains and Hislop Park baseball fields during the 2007 baseball season as well as permission to maintain signage to the rear of the Plains scoreboard. Seconded by Councilor Grasso and voted.

X. A. Letter from Kathie Lynch, Portsmouth Little League, Inc., requesting permission to place temporary signage at the Plains and Hislop Park baseball fields during the 2007 baseball season as well as permission to maintain signage to the rear of the Plains scoreboard

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

Councilor Whitehouse requested that City Manager Bohenko ensure that the signs are installed facing the inside of the field. City Manager Bohenko advised the City Council that the signs have been installed facing the inside of the field in the past and they will continue to do so. He also informed the City Council that all signs will be green and white in color so there is uniformity.

Motion passed.

Councilor Reynolds moved to suspend the rules in order to take up Item X. B. - Letter from Barbara Massar, Pro Portsmouth Inc., requesting permission to close Pleasant Street from Porter Street to Market Square to hold "Summer in the Street" on the following dates: June 23rd, June 30th, July 7th, July 14th, July 28th, and August 4th (rain date August 11th). Seconded by Councilor Grasso and voted.

X. B. Letter from Barbara Massar, Pro Portsmouth Inc., requesting permission to close Pleasant Street from Porter Street to Market Square to hold "Summer in the Street" on the following dates: June 23rd, June 30th, July 7th, July 14th, July 28th, and August 4th (rain date August 11th)

Councilor Reynolds moved to refer to the City Manager with power. Seconded by Councilor Smith.

Councilor Whitehouse expressed concern with the request for amplification for the event dates. City Manager Bohenko advised Councilor Whitehouse that he works directly with Ms. Massar on the events to ensure that there are no issues related to the amplification. Councilor Smith said that there were no issues last year with the amplification and the event ends by 9:30 p.m.

Motion passed.

Assistant Mayor Ferrini moved to suspend the rules in order to take up Item VII. A. – Acceptance of Phase II Regional Influenza Pandemic Planning Grant. Seconded by Councilor Grasso and voted.

VII. A. Acceptance of Phase II Regional Influenza Pandemic Planning Grant

Assistant Mayor Ferrini moved to authorize the City Manager to apply for, accept, and expend a grant from the New Hampshire Department of Health and Human Services for the purposes of developing regional public health emergency plans, which includes plans for key capabilities that will be necessary to respond to an influenza pandemic. Seconded by Councilor Grasso and voted.

VI. PUBLIC COMMENT SESSION

Henry Sanders expressed his interests and concerns relating to the renovations or the relocation of the Portsmouth Middle School. He advised the City Council that the current location of the school is ideal for all. He also informed the City Council that it is not beneficial for middle schools and high schools to be located next to each other. Mr. Sanders addressed the land fill issues associated with the Jones Avenue site for a new middle school and said he does not feel that it has been adequately reviewed.

Airial Sillanpaa said that her business is located on Deer Street and spoke in support of the Deer Street merchants request before the City Council this evening for the placement of flags along the street in front of merchant locations. She advised the City Council that the flags would bring attention to the retail stores and to advise the public that the establishments are open. She urged the City Council to support and approve the request as submitted.

David Forman said that the location of a middle school is important to the residents and to future generations. He addressed several items listed within the Master Plan to encourage development and the reuse and rehabilitation of existing structures.

VII. APPROVAL OF GRANTS AND DONATIONS

- B. Acceptance of Donations to the New Library Building Fund
- Laurinda L. Hill and David M. Holden - \$800.00
 - Peter B. and Shirley A. Holden - \$1,000.00
 - Kristin and Silas Beane - \$1,000.00
 - Portsmouth Garden Club - \$1,000.00
 - John R. and Skye Maher - \$2,000.00
 - Phyllis Eldridge - \$7,000.00

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

Assistant Mayor Ferrini moved to suspend the rules in order to allow for an additional speaker for the Public Comment Session. Seconded by Councilor Whitehouse and voted.

Dan Rawling spoke regarding the design of the Sheraton Conference Center stair tower. He said that the stair tower is the dominant element of the project and he would like the design to be more unique to the city. Mr. Rawling suggested using art funds towards the design to the stair tower and allowing it to become a sculpture piece.

Assistant Mayor Ferrini moved to suspend the rules in order to take up Item X. F. – Letter from Deer Street merchants' requesting permission to hang "Deer Street Open' flags at each of their locations. Seconded by Councilor Grasso and voted. Councilor Smith abstained from voting.

- X. F. Letter from Deer Street merchants' requesting permission to hang "Deer Street Open" flags at each of their locations

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

City Manager Bohenko stated that the merchants' would need to request permission on an annual basis to hang the flags.

Councilor Whitehouse said that there are 8 signatures on the request and asked if those locations would be the establishments with the flags. He advised the City Council that he is in favor of the request and it would create uniformity of the area.

Councilor Raynolds spoke to the work being done on the Deer Street Pumping Station and asked if there would be a resurfacing of the street. City Manager Bohenko said it is the hope to make the intersection more pedestrian friendly. Councilor Raynolds asked if the city would consider the creation of an island at the foot of Deer Street with a business guide type sign listing all the establishments on the street. City Manager Bohenko said that could be discussed following the design.

Councilor Smith advised the City Council that he would be abstaining from voting on this matter as he owns a business on Deer Street. He also informed the City Council that the Deer Street Association is looking at creating a sign at the Sheraton property listing the businesses. He also advised Councilor Whitehouse that there would be more than the 8 businesses listed on the letter installing the flags in front of their establishments. He said there may be as many as 13 to 15 businesses.

On a roll call vote 7-0, motion passed with Councilor Smith abstaining from voting.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Elderly Real Estate Tax Exemption to \$30,600.00 for single and \$37,740.00 for married and total assets may not exceed \$102,000.00 whether single or married

Councilor Whitehouse moved to pass first reading and schedule a public hearing and adoption at the March 5, 2007 City Council meeting. Seconded by Councilor Grasso and voted.

- B. First reading of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Disabled Real Estate Tax Exemption to \$30,600.00 for single and \$37,740.00 for married and total assets may not exceed \$102,000.00 whether single or married

Councilor Grasso moved to pass first reading and schedule a public hearing and adoption at the March 5, 2007 City Council meeting. Seconded by Councilor Smith.

Councilor Whitehouse asked if there is a percentage of disability which individuals must be in order to qualify for the exemption. City Assessor Maurice advised the City Council that it is not based on a percentage but whether they qualify for disability through the social security office. Councilor Hynes said he believes in order to qualify you must receive a pension from the United States.

Motion passed.

- C. First reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Maplewood Avenue by the addition from the US Route 1 Bypass northbound off ramp to Prospect Street

Councilor Smith moved to pass first reading and schedule a public hearing and second reading at the March 5, 2007 City Council meeting. Seconded by Councilor Whitehouse and voted.

- D. First reading of Ordinance amending Chapter 7, Article III, Section 7.321 (G) – Snow Emergency Parking Ban; Section 7.324 – Limited Parking – One Hour by the deletion of Chatham Street: southerly side from Summer Street to Winter Street; Section 7.326 – Limited Parking – 15 Minutes by the addition of Hanover Street: northerly side, first two spaces east of High Street; northerly side, two spaces 246 feet west from the intersection of High Street; Section 7.327 – Limited Parking – Two Hours – by the addition of Church Street: easterly side, two spaces 26 feet south of State Street; Section 7.330 – No Parking – Hanover Street by the addition of the southerly side from Market Street to a point 285 feet east of Fleet Street; and Section 7.403 to be entitled Length of Vehicles – Vehicles Parking in Off-Street Parking Areas shall not exceed 19 feet in length

Councilor Smith moved to pass first reading and schedule a public hearing and second reading at the March 5, 2007 City Council meeting. Seconded by Councilor Grasso and voted.

- E. First reading of Ordinance amending Chapter 10, Section 10-102 – Definition: Floor Area Ratio; Section 10-304 (A) Business – Table 10 Dimensional Requirements; and Section 10-304 – New (E) and (F) for Central Business A District (CBA)

Assistant Mayor Ferrini moved to pass first reading on the ordinance as presented, schedule a public hearing and second reading for March 19, 2007 and refer to the Planning Board for a report back; with the request that the Planning Board also report back on the previous amendment that was referred to them that had the effect of changing maximum building height from 50 feet to 40 feet within the Central Business A District prior to the March 19, 2007 meeting of the City Council. Seconded by Councilor Smith.

Councilor Whitehouse asked if delaying this would allow developers to get their foot in the door with requests. City Attorney Sullivan advised Councilor Whitehouse that a referral to the Planning Board is required by ordinance.

Councilor Dwyer said that the ordinance before the City Council came out of the work session on February 1, 2007 with the Planning Board.

Councilor Raynolds said that from the work session with the Planning Board we have developed a more flexible and sophisticated ordinance addressing individuals concerns about height and density. He advised the City Council that we need to preserve a viable and vibrant landscape downtown.

Assistant Mayor Ferrini said he agrees with Councilors Dwyer and Raynolds and feels that this ordinance moves the ball down the field much quicker. He advised the City Council that this is in the best interest of the community.

Councilor Smith echoed the comments voiced this evening. He said the work session allowed this ordinance to be created which was the initial intention.

Motion passed.

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Donations to the Coalition Legal Fund
- Town of Hebron - \$1,000.00
 - Town of Grantham - \$1,000.00
 - Town of Bridgewater - \$1,250.00
 - Town of Tuftonboro - \$5,000.00

(Anticipated action – move to approve and accept the donations as listed, to be placed in the Coalition Legal Fund)

- B. Acceptance of Donations to the New Library Building Fund
- Heather E. Armitage - \$20.00
 - RB Cole - \$25.00
 - Henry A. Gill - \$35.00
 - Marsha J. Richelli - \$50.00
 - IMHOFF Consulting Project LLC - \$100.00
 - William, Susan and Alexandra Manfull - \$100.00
 - Nicholas and Lea H. Aeschliman - \$100.00
 - Richard Katz - \$100.00
 - Albert B. Glassenberg - \$500.00
 - Edith Gipstein Revocable Trust and Edward Gipstein Trustee - \$500.00

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

- C. Acceptance of Wellness Grant - \$3,754.00 (***Anticipated action – move to accept the Wellness Grant in the amount of \$3,754.00 from the Trust’s Health Promotion WELLDollars Grant Program***)
- D. Acceptance of Anonymous Donation to the Portsmouth Police K-9 Unit in the amount of \$10.00 (***Anticipated action – move to approve and accept the donation to the Portsmouth Police Department as listed***)
- E. Letter from Marjorie Hubbard, Greater Portsmouth Chamber of Commerce, requesting permission to hang Portsmouth Harbour Trail flags at 26 key sites for the 2007 season (***Anticipated action – move to refer to the City Manager with power***)
- F. Letter from Christine Groleau, The Children’s Museum of Portsmouth, requesting permission to hold the Annual 5k Road Race and Kid’s Fun Run on Saturday, May 5, 2007 at 9:00 a.m. (***Anticipated action – move to refer to the City Manager with power***)

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

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- C. Letter from Tina Peiffer, Portsmouth Percussive Dance Festival, requesting permission to hold a street dance on Saturday, June 30, 2007 at 12:00 p.m.

Councilor Whitehouse moved to refer to the City Manager with power. Seconded by Councilor Reynolds and voted.

- D. Letter from Petra Barstow, PHS “100 Voices Choir”, requesting a donation toward the PHS Students performance at the Riverside Church in New York City in April

Councilor Whitehouse moved to expend \$5,000.00 from the Contingency Fund for the PHS “100 Voices Choir”. Seconded by Councilor Reynolds.

Councilor Whitehouse said that the event will cost \$75,000.00 and they have raised \$35,000.00 thus far. He said he feels that it would be beneficial to approve the motion and expend the funds from the contingency account.

Assistant Mayor Ferrini said that it is a worthy cause and asked if the City Council is in the habit of voting on these types of requests. City Manager Bohenko advised the City Council that typically the city does not receive these types of requests. He said if we did receive a request it would typically be because the City Council is participating in the event. He also

advised the City Council that the Mayor will at times write a letter supporting the event to businesses urging their support for the organization and their request.

Mayor Marchand advised the City Council that there is not a great deal of these types of requests. He said he has received calls from organizations requesting financial help from the city but if you say yes to one you have to say yes to all. Mayor Marchand informed the City Council that he has offered his time to organizations and said he is concerned granting this request would be setting precedence for future requests.

Councilor Grasso said that this is a very worthy cause but she agrees that the Council would be setting precedence for future requests.

Councilor Raynolds said he agrees with the comments made this evening and suggested that the City Council put their heads together to offer their support to help raise money without making an appropriation. He suggested placing something on Channel 22 to announce the needs for funds and if the event is recorded playing it on Channel 22 for future broadcasts.

Councilor Dwyer said that she also agrees with the comments made this evening and appreciates what Councilor Whitehouse is trying to do. She suggested giving publicity and asked if we could get the newspapers to write a story regarding their need for funds and advertise the event.

Motion *failed* to pass. Councilor Whitehouse voted in favor. Assistant Mayor Ferrini, Councilors Grasso, Dwyer, Raynolds, Smith, Hynes and Mayor Marchand voted opposed.

- E. Letter from Joanne Grasso, Co-Chair and Kent LaPage, Co-Chair, Joint Building Committee for the High School Renovations/Construction Project, requesting that the City Council accept the final report of the Joint Building Committee pursuant to RSA 199:4-a

Councilor Grasso moved to accept the final report of the Joint Building Committee pursuant to RSA 199:4-a. Seconded by Councilor Smith and voted.

- G. Request from Upscale Nails to place one A-frame sign in front of their establishment located at 59B Deer Street

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

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

2. Request for Approval of Joint Use Agreement with PSNH

City Manager Bohenko requested that City Attorney Sullivan address this matter for the City Council. City Attorney Sullivan advised the City Council that they authorized the negotiation of an easement agreement with Borthwick Avenue, as part of the agreement would be that there would be a Joint Use Agreement regarding the sewer pipes and utility poles. He advised the City Council that the easement has been authorized and that the City Council has not authorized the Joint Use Agreement as of yet and it needs approvals. The substance of the request is that the City Manager be authorized to conduct the negotiations. City Attorney Sullivan informed the City Council that there would be some costs involved and the city hopes that the cost would be taken care of by in-kind services with PSNH. City Attorney Sullivan reported to the City Council that the maximum down side risk is \$13,000.00 to be paid from project funds.

Councilor Whitehouse moved to authorize the City Manager to enter into a Joint Use Agreement with PSNH for purposes of facilitating the construction of the Borthwick sewer line and further authorize the City Manager to expend up to \$13,000.00 if necessary. Seconded by Councilor Smith and voted.

3. Seacoast Growers' Association (Farmers' Market) Proposed 2007 License Agreement

City Manager Bohenko advised the City Council that this is a request to approve the proposed 2007 License Agreement with Seacoast Growers' Association for Farmers' Market to be conducted at the Municipal Complex.

Councilor Smith moved to authorize the City Manager to enter into a License Agreement with the Seacoast Growers' Association as presented. Seconded by Councilor Hynes.

Councilor Reynolds asked if there was urgency in approving the request this evening. He advised the City Council that people have mentioned they desire the market be in the downtown. He said that he has done research on public markets and their economic development and he does not feel we are getting the full value and benefit from the market being located at its present site.

Councilor Hynes said that this City Council has always done the right thing to make Portsmouth look like Portsmouth and if we start making it look like another city it could disrupt the charisma and he would not support the suggestion of Councilor Reynolds.

Councilor Dwyer said that it would be inappropriate to hold off granting this request this year. She said that we are too close to the season at this time to delay the request.

City Manager Bohenko said that we went through an extensive process when we looked at where to place the market. The idea of placing the market in the downtown brought up concerns relative to the parking and unloading of materials for the participants and from a logistically point it would not work. City Manager Bohenko advised the City Council that we could revisit the issue next year but requested the approval be given for this year.

Councilor Whitehouse said he feels the Municipal Complex site is working and requested that the City Council move forward with the request for approval.

Assistant Mayor Ferrini said that he is not in favor of moving the market to another location. He said that the Municipal Complex site is a good location for this one day market.

Motion passed.

4. Establish a Public Hearing Re: Re-use of Doble Reserve Center

Councilor Smith moved to establish a public hearing on Wednesday, April 4, 2007, at 7:00 p.m., regarding the Re-use of the Doble Reserve Center. Seconded by Councilor Whitehouse and voted.

5. Disposal of Library Surplus Property

City Manager Bohenko said with the City's relocation of its library services to Parrott Avenue, there was surplus property at the former public library location. City Departments have already removed to their respective departments old library property which they could re-use. The bulk of the used furniture in good condition was put to use by other departments including the School Department.

The aggregate value of the shelving and miscellaneous furniture may exceed \$500, but only if sold in small lots. Engaging an auctioneer would not be economically feasible. The City is considering other means of selling what has value without significant cost or staff involvement given the minimum value. City Manager Bohenko said the goal will be to dispose of it in a sustainable and cost effective manner.

Councilor Grasso moved to authorize the City Manager to dispose, by any effective means, surplus furniture and shelving from the old public library. Seconded by Councilor Whitehouse and voted.

B. MAYOR MARCHAND

1. Appointments to be Voted:

- Appointment of Elizabeth A. Shepard-Rabadam – Citywide Neighborhood Association

Councilor Smith moved to appoint Elizabeth A. Shepard-Rabadam to the Citywide Neighborhood Association until April 1, 2008. Seconded by Councilor Dwyer and voted.

- Appointment of Sandra Dika – Historic District Commission from Alternate to Regular Member

Councilor Whitehouse moved to appoint Sandra Dika as a regular member of the Historic District Commission. Sandra will be filling the unexpired term of John Rice until June 1, 2007. Seconded by Councilor Hynes and voted.

- Reappointment of Duncan MacCallum – Zoning Board of Adjustment (*tabled from the January 8, 2007 City Council meeting*)

Councilor Grasso moved to remove from the table the reappointment of Duncan MacCallum to the Zoning Board of Adjustment which was tabled by the City Council at the January 8, 2007 City Council meeting. Seconded by Councilor Smith and voted.

Councilor Grasso moved to reappoint Duncan MacCallum to the Zoning Board of Adjustment. Seconded by Councilor Dwyer. On a roll call vote 4-4, motion *failed* to pass. Councilors Grasso, Dwyer, Whitehouse and Smith voted in favor. Assistant Mayor Ferrini, Councilors Reynolds, Hynes and Mayor Marchand voted opposed.

2. Acceptance of Resignation

- John Rice – Historic District Commission Effective March 7, 2007

Assistant Mayor Ferrini moved to accept with regret the resignation of John Rice from the Historic District Commission effective March 7, 2007. Seconded by Councilor Reynolds and voted.

3. Reports

Mayor Marchand announced that the School Board will be considering the issues relative to the renovations or relocation of the middle school. He said if individuals would like to express comments relative to the process or issues relating to the middle school those comments should be expressed to the School Board. Mayor Marchand said it is important to note that the City Council will only vote on the bonding request not the location of the facility.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Dwyer said that the Joint School Advisory Committee finished its work on the middle school. She said that there were presentations that were not able to be given at the Joint School Advisory Committee level and these presentations should be heard. She suggested that the City Council hold a work session with presentations by Arthur Maerlender, Jr., of Dartmouth Medical School regarding adolescent needs; Beth Della Valle, Land Use Team Coordinator, to discuss sprawl and school in their relationship to sprawl; and John Corrigan, Safe Routes to School Coordinator regarding NH Safe Routes to Schools. Councilor Dwyer said if the presentations are held here in the Council Chambers they may be televised for the audience at home to watch. She announced that these individuals would be available on March 28, 2007 at 6:30 p.m. to provide the presentations.

Councilor Smith advised the City Council that the Traffic & Safety Committee has created a subcommittee to create safe routes to schools. He informed the City Council that information regarding this issue would be forthcoming to the City Council at a future meeting. He also announced that Portsmouth is the first community in the State to look at safe routes to schools.

Councilor Dwyer moved to establish a Work Session on March 28, 2007 at 6:30 p.m. in the City Council Chambers with presentations by Arthur Maerlender, Jr., Dartmouth Medical School regarding adolescent needs, Beth Della Valle, Land Use Team Coordinator, to discuss sprawl and school in their relationship to sprawl, and John Corrigan, Safe Routes to School Coordinator regarding NH Safe Routes to Schools. Seconded by Councilor Smith and voted.

XIII. ADJOURNMENT

At 9:00 p.m., Councilor Whitehouse moved to adjourn. Seconded and voted.



Kelli L. Barnaby, CMC
City Clerk