

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, MARCH 19, 2007

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

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, Pantelakos, Whitehouse, Smith and Hynes

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.

INTRODUCTION OF STUDENTS PARTICIPATING IN STUDENT GOVERNMENT DAY, APRIL 11, 2007

ELISA LOESER	MAYOR MARCHAND
TIM WELCH	ASSISTANT MAYOR FERRINI
KATIE ACHILLES	COUNCILOR GRASSO
KRISTEN AMATO	COUNCILOR DWYER
KELLI JOHNSON	COUNCILOR RAYNOLDS
CASSAUNDR A DELVALLE	COUNCILOR PANTELAKOS
JOSH BUNKER	COUNCILOR WHITEHOUSE
MEGHAN TONER	COUNCILOR SMITH
GAMBLE MORRISON	COUNCILOR HYNES
ALEX LEITH	CITY MANAGER
KRISTEN SCOTT	CITY ATTORNEY
ERIN HAYES	CITY CLERK

The City Council, City Manager, City Attorney and City Clerk introduced their counterparts that will be participating in Student Government Day on April 11, 2007.

PROCLAMATIONS

1. Music in Our Schools Month

Councilor Grasso read the Proclamation declaring March as Music in Our Schools Month. Mayor Marchand presented the Proclamation to Wendell Purrington who accepted it with thanks and appreciation.

2. Youth Art Month

Councilor Dwyer read the Proclamation declaring March as Youth Art Month. Mayor Marchand presented the Proclamation to Anna Nuttall who accepted it with thanks and appreciation.

V. ACCEPTANCE OF MINUTES – MARCH 5, 2007

Councilor Pantelakos moved to approve and accept the minutes of the February 12, 2007 City Council meeting. Seconded by Assistant Mayor Ferrini and voted.

VI. PUBLIC COMMENT SESSION

David Perkins said that the Woodbury Avenue traffic calming project must be included in this Capital Improvement Plan and it is a safety issue that cannot be delayed. He urged the City Council to act in the best interest of the residents and approve the funding for this project.

Michael Keefe spoke in support of the Woodbury Avenue traffic calming project. He said it is a safety issue for the neighborhood that needs immediate attention. He also spoke concern with the maintenance and upkeep of the trees in the area.

Ginny Geraci urged the City Council to support the Woodbury Avenue traffic calming project and its funding. She advised the City Council that this project has been a request of the neighborhood for many years and asked the City Council to approve the funding for FY08.

Iiro Lehtinen spoke in support of the traffic calming project for Woodbury Avenue. He informed the City Council that the area has become a thru way and there are many safety issues associated with Woodbury Avenue. Mr. Lehtinen advised the City Council that this is a quality of life issue for the neighborhood. He thanked City Manager Bohenko for recommending the City Council approve the funding for the project for FY08.

Peter Bresciano welcomed the students that will be participating in Student Government Day and urged their continued involvement beyond Student Government Day. He also thanked Mary Carey Foley for her diligent efforts in organizing Student Government Day over the years. Mr. Bresciano urged the City Council to vote in favor of City Manager Bohenko's recommendation to add \$1,000,000.00 to the Capital Improvement Plan for the Woodbury Avenue traffic calming project.

Lenore Weiss Bronson said she echoes the statements of her neighbors this evening and the support of the Woodbury Avenue traffic calming project. She read a letter from Russ Grazier, Executive Director of Portsmouth Music and Arts Center (PMAC) also supporting the project and its funding as the PMAC will be relocating to the former Wentworth School. Ms. Bronson said that she is encouraged by City Manager Bohenko's recommendation to support the funding for FY08.

Brian Gregg spoke in support of the funding in the Capital Improvement Plan for the Television Studio improvements for channel 22. He informed the City Council that the funding would provide for the necessary improvements and the ability to create an access channel. Mr. Gregg spoke to the survey conducted by the Cable Television and Communications Commission that showed that 73% of the households in the city want an access channel.

Eric Anderson spoke in support of the Capital Improvement Plan but expressed concern with the amount the City has bonded for various projects. He said that there should be concern with the bonding for out years FY09 – FY13. Mr. Anderson said bonding to him is no more than a credit card bill that the taxpayers are responsible for paying.

VII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 10, SECTION 10-102 – DEFINITION: FLOOR AREA RATIO; SECTION 10-304 (A) BUSINESS – TABLE 10 DIMENSIONAL REQUIREMENTS; AND SECTION 10-304 BY THE ADDITION OF A NEW (E) AND (F) FOR CENTRAL BUSINESS A DISTRICT (CBA). THIS ORDINANCE PROPOSES CHANGES TO CERTAIN DIMENSIONAL REQUIREMENTS IN CENTRAL BUSINESS A. THOSE CHANGES INCLUDE A 40 FOOT HEIGHT LIMITATION WITHIN 10 FEET OF A STREET RIGHT OF WAY AND THE ESTABLISHMENT OF VARIABLE FLOOR AREA RATIOS AFFECTING MAXIMUM LOT COVERAGE REQUIREMENTS

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

City Manager Bohenko requested that Planning Director Holden provide an overview of the ordinance for the City Council.

Planning Director Holden reported that the Planning Board held a number of work sessions on this matter, including a joint session with the City Council. The Planning Board has recommended to the Council as follows:

- With regard to the ordinance that has the effect of changing the maximum building height from 50 feet to 40 feet within the Central Business A District, the Planning Board has recommended the Council take no further action.
- Alternatively, the Planning Board recommends Council adoption of the alternative dimensional regulations within the CBA District, which passed first reading on February 12, 2007 and is now before the Council for a March 19th public hearing and second reading. These regulations outline alternative design options regarding minimum open space requirements, floor area ratio requirements, and upper-story step-backs within the Central Business A District.

Section 10-304:

- E. Central Business A, no portion of a building within 10 feet of a street right of way line shall exceed 40 feet in height.
- F. In Central Business A, the floor area ratio (FAR) shall not exceed 3.5 except as provided below:
 - 1. The FAR may be increased to a maximum of 3.75 provided that public amenities are provided in accordance with the following open standards:
 - a. Lots adjacent to North Mill Pond or the Piscataqua River: The development shall provide a continuous public right of way and pathway parallel to the waterfront for the entire width of the lot, including connections to abutting lots or public ways. When such connections are not available due to current conditions on abutting lots, provisions shall be made for future connections to such abutting lots in locations determined by the Planning Board.
 - b. Lots not adjacent to North Mill Pond or the Piscataqua River: The development shall include a pedestrian plaza or pocket park that meets the following standards:
 - I. The plaza or park shall contain a minimum of 1,500 square feet and shall measure at least 20 feet in width.
 - II. The plaza or park shall adjoin the public sidewalk and shall be open on one or more sides to the sidewalk.
 - III. The plaza or park shall be open to the public, shall be used exclusively by pedestrians, and shall be designed with pedestrian amenities such as benches.
 - IV. The plaza or park shall include trees and other landscaping to create a separation from the street, to provide shade, to reduce noise, and to mitigate fumes.
 - 2. The FAR may be further increased to a maximum of 4.00 provided that the lot complies with the applicable open space standard in paragraph (F)(1) above and also provides one or more of the following:
 - a. The principal building on the site is US Green Building Council LEED (Leadership in Energy and Environmental Design) certifiable as demonstrated by a completed LEED checklist/scorecard.
 - b. The development provides mid-block public pathways connecting two streets or connecting streets to public pathways along the waterfront.

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

VIII. APPROVAL OF GRANTS AND DONATIONS

- A. Acceptance of Donation to the New Library Building Fund
Pax World Management Corp. - \$5,000.00 (*For the Naming of the Children's Story Time Room*) (*Additional pledge to be paid annually 2008 and 2009 totaling \$10,000.00*)

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

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance amending Chapter 7, Article IX, Section 7.901 – Penalties, Forfeiture and Separability - increasing fines listed under Item A and F of Section 7.901 - Penalties

Councilor Pantelakos moved to pass first reading of the amended ordinance, as submitted, and hold a public hearing and second reading at the April 4, 2007 City Council meeting. Seconded by Councilor Smith and voted.

- B. First reading of Ordinance amending Chapter 7, Article XI, Section 7.1100 – Speed Limits sub-section B – Speed Limit 20 MPH by the addition of Peirce Island Road

Councilor Smith moved to pass first reading of the amended ordinance, as submitted, and hold a public hearing and second reading at the April 4, 2007 City Council meeting. Seconded by Councilor Hynes and voted.

- C. First reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking sub-section A by the addition of Peirce Island Road: both sides of the street from most easterly access of the City pool to the access/egress of the sewer treatment plant

Councilor Grasso moved to pass first reading of the amended ordinance, as submitted, and hold a public hearing and second reading at the April 4, 2007 City Council meeting. Seconded by Councilor Smith and voted.

- D. Second 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 by the addition of a New (E) and (F) for Central Business A District (CBA). This Ordinance proposes changes to certain dimensional requirements in Central Business A. Those changes include a 40 foot height limitation within 10 feet of a street right of way and the establishment of variable floor area ratios affecting maximum lot coverage requirements

Councilor Grasso moved to pass second reading and hold third and final reading at the April 4, 2007 City Council meeting on the attached ordinance as presented. Seconded by Councilor Smith.

Councilor Grasso advised the public that there have been numerous work sessions on this matter, which is why there were no speakers during the public hearing on the ordinance.

Councilor Whitehouse said that this was not what he wanted to see for the height issue. He advised the City Council that a reference to the 40 feet should be listed in Table 10 under Central Business A rather than or in addition to the section. Assistant Mayor Ferrini said that an amendment is not required for that to be referenced in the table but could be listed as a foot note.

Councilor Raynolds moved to amend the motion to strike the phrase “*one or more of the following*” from Section 10-304 F.2. Seconded by Councilor Dwyer.

Councilor Whitehouse asked City Attorney Sullivan how this amendment would impact the ordinance in terms of the advertising of the public hearing. City Attorney Sullivan said he does not view this as a significant change that would require a new public hearing and additional notice for advertising.

Councilor Dwyer said that the ordinance is in the spirit of which the Planning Board has discussed relative to incentives.

Assistant Mayor Ferrini asked if there is any parcel that would not provide for the path of LEED certified. Planning Director Holden said you could have small lots that do not lend itself to that.

City Manager Bohenko said that this ordinance could come back in the future for additional amendments. He urged the City Council to proceed with caution and that this ordinance has gone through a great deal of review.

Councilor Dwyer said that individuals may be able to do F.2.A. but not F.2.B. Planning Director Holden agreed with Councilor Dwyer. Councilor Dwyer said in order to get to the 4.00 for FAR you would have had to be at 3.75 FAR.

Assistant Mayor Ferrini said he is not sure if Councilor Raynolds amendment is necessary.

Councilor Smith spoke opposed to the amendment and encouraged the Planning Board and Planning Department to come up with new and other incentives for LEED certified buildings.

City Manager Bohenko advised the City Council that Councilor Raynolds requested information relative to the Town of Epping's ordinance and he would provide that information to him as well as the other City Council members.

Councilor Raynolds withdrew his amendment and Councilor Dwyer her second to the motion.

Main motion passed.

- E. Third and final 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 third and final reading as presented. Seconded by Councilor Whitehouse and voted.

- F. Third and final 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 third and final reading as presented. Seconded by Councilor Grasso and voted.

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Tammy Jordan Cary, Sexual Assault Support Services, requesting permission to hold the 15th Annual SASS Walk on Sunday, April 29, 2007 at 1:00 p.m. (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Stacy Baker Chilicki, Seacoast Repertory Theatre, requesting permission to hold the 41st Annual Bow Street Fair on Saturday, July 21, 2007 and Sunday, July 22, 2007 from 10:00 a.m. to 5:00 p.m. In addition, requesting that Bow Street be blocked to all vehicle traffic starting at midnight on Friday, July 20, 2007 (***Anticipated action – move to refer to the City Manager with power***)
- C. Renewal Requests for Sidewalk Obstruction Licenses from the following businesses with no changes from last year

- Anna Street, LLC – 1 A-frame sign
- Ashley & Victoria – 1 A-frame sign
- Attrezzi LLC – 1 A-frame sign
- Bagel Works – 4 Tables, 12 Chairs and 1 A-frame sign
- Belle Peppers – 2 Tables and 4 Chairs
- Betty LaBranche Agency – 1 A-frame sign
- Blue Athletic, Inc. – 1 A-frame sign
- Breaking New Grounds, Inc. – 15 Tables and 42 Chairs
- Buyer's Brokers of the Seacoast – 1 A-frame sign
- Ceres Bakery – 4 Benches
- Choozy Shooz – 1 A-frame sign
- Cobble Hill – 1 A-frame sign
- Colby's Breakfast & Lunch – 1 A-frame sign
- Corks & Curds, LLC – 1 A-frame sign
- Edible Arrangements – 1 A-frame sign
- Fat Belly's – 1 A-frame sign
- Geno's Coffee Shop – 1 A-frame sign
- Izzy's Frozen Yogurt – 1 Bench
- Leo Auger Real Estate – 1 A-frame sign
- Lucky 7 Gallery – 1 A-frame sign
- Maine-ly New Hampshire – 1 A-frame sign
- Making Faces – 1 A-frame sign
- Me & Ollies Café – 6 Tables, 18 Chairs and 1 A-frame sign
- Muddy River Smokehouse – 1 A-frame sign
- 02 Yoga Studios – 1 A-frame sign
- Paradiza – 1 A-frame sign
- Poco's – 1 Bench and 1 A-frame sign
- Popovers on the Square, LLC – 10 Tables and 38 Chairs
- Portsmouth Athenaeum – 1 A-frame sign
- Prudential Rush Realty – 1 A-frame sign
- Puttin' on the Glitz – 1 Bench
- Rosa's Restaurant – 2 A-frame signs
- Six Degrees A Unique Salon – 1 A-frame sign
- Starbucks Coffee – 4 Tables and 8 Chairs
- Stonewall Kitchen – 1 A-frame sign
- The One Hundred Restaurant – 1 A-frame sign
- The Press Room – 1 A-frame sign
- 3 West Provisions, Inc. (FKA Portsmouth Provisions) – 1 A-frame sign
- Tugboat Alley – 1 Bench
- Water Monkey – 2 A-frame signs

(Anticipated action – move to refer to the City Manager with power)

Councilor Smith advised the City Council that he is the owner of Maine-ly New Hampshire which has a request for renewal of a sidewalk obstruction.

Councilor Pantelakos moved to adopt the Consent Agenda as presented. Seconded by Councilor Grasso and voted.

Mayor Marchand declared a brief recess at 8:15 p.m. At 8:25 p.m., Mayor Marchand called the meeting back to order.

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Dr. Robert J. Lister, Superintendent of Schools Re: Replacement of Little Harbour School sign located on Clough Drive

Councilor Grasso moved to accept the recommendation of the Planning Board for the replacement of the sign located on Clough Drive. Seconded by Councilor Hynes and voted.

- B. Letter from Peter Bresciano requesting that the City of Portsmouth take appropriate action to see that the New Hampshire Retirement Fund divest state and local monies from companies that do business with terrorist-sponsoring governments

Assistant Mayor Ferrini moved to accept and place the letter on file and direct the City Manager to send a copy to the NH Retirement Board and the Legislative Delegation. Seconded by Councilor Grasso and voted.

- C. Letter from Perry Silverstein regarding 10 Commercial Alley Building Addition requesting permission to work in the public right of ways, landscaping changes in the public right of way and an easement from the City of Portsmouth for the foundation and overhangs under and over the public right of way

City Manager Bohenko advised the City Council that there needs to be a review of this request by the staff. City Attorney Sullivan informed the City Council that the easement issue needs to be referred to the Planning Board.

Councilor Grasso moved to refer to the City Manager for a report back and further, refer the request of an easement to the Planning Board for report back. Seconded by Assistant Mayor Ferrini and voted.

- D. Letter from Peter Somssich requesting permission to hold a Labor Day / Peace Treaty Parade on Saturday, September 15, 2007

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

City Manager Bohenko said that the date of September 15th may be a problem because the following day is the Portsmouth Criterium race. He advised the City Council that he would work with Mr. Somssich to come up with a date that would not impact any other event.

Motion passed.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Request to Adopt the Capital Improvement Plan (CIP) FY2008-2013

City Manager Bohenko said he is requesting action on the Capital Improvement Plan. He spoke to his memorandum outlining 3 areas of the plan and said that replacement pages have been provided reflecting those areas and changes.

City Manager Bohenko advised the City Council that funding for the \$25,000.00 will come from the capital contingency line item, which would mean the total of \$1.5 million dollars proposed for FY08 general fund would remain the same. After substantial review with City staff and taking into consideration neighborhood concerns and looking at the history of the TSM-CITY-51: ROADWAY: Woodbury Avenue Traffic Calming Project, he is recommending the City Council amend the Capital Improvement Plan and include \$1 million dollars in the FY08 budget for proposed traffic calming improvements to Woodbury Avenue. City Manager Bohenko recommend these improvements be funded through bonding. The bonding of \$1 million would be paid over ten years and the impact to the FY08 budget would be \$22,500.00 or less than \$.01 on the tax rate. The average repayment over the ten years or \$.03 impact on the tax rate in future years. In further review of this matter, it is the belief of City staff and myself that we cannot wait to 2012 or later to address this problem. City Manager Bohenko informed the City Council that it would be his intent to start these traffic calming improvements sometime in FY08 if approved. He said that it is in the best interest of the city to put this plan in for funding in FY08 and that he would work with the neighborhood on the obvious needs. The bonding for this project would come back to the City Council for approval in the summer. As you recall, there were two individuals that made comments regarding project IS-IT-02 Television Studio. These are funds that have been requested by the Cable Commission for upgrades to current equipment, and the Commission recommends that these funds remain in the Capital Improvement Plan.

Councilor Pantelakos moved to adopt the Capital Improvement Plan including the aforementioned amendments outlined in items 1 and 2 of the City Manager's comments dated March 15, 2007. Seconded by Councilor Dwyer.

Items 1 and 2 as outlined in City Manager's comments:

- 1) Request by Councilor Chris Dwyer to add \$25,000.00 in FY08 for project BI-SD-09: Elementary School Upgrades. Funding for the \$25,000.00 will come from the capital contingency line item, which would mean the total of \$1.5 million dollars proposed for FY08 general fund would remain the same.

- 2) After substantial review with City staff and taking into consideration neighborhood concerns and looking at the history of the TSM-CITY-51: ROADWAY: Woodbury Avenue Traffic Calming Project, I am recommending the City Council amend the Capital Improvement Plan and include \$1 million dollars in the FY08 budget for proposed traffic calming improvements to Woodbury Avenue. I would recommend these improvements be funded through bonding. The amortization schedule shows the bonding of \$1 million would be paid over ten years and the impact to the FY08 budget would be \$22,500.00 or less than \$.01 on the tax rate. The average repayment over the ten years or \$.03 impact on the tax rate in future years. In further review of this matter, it is the belief of City staff and myself that we cannot wait to 2012 or later to address this problem. It would be my intent to start these traffic calming improvements sometime in FY08 if approved.

Councilor Pantelakos said that she is pleased to see the funding brought forward for the Woodbury Avenue traffic calming project.

Councilor Grass moved to amend the motion to delete the \$30,000.00 for the next six years for the Television Studio. Seconded by Councilor Pantelakos.

Councilor Grasso said she received a number of calls opposed to the funding for this item. She said that there should be a mechanism where the city would not be responsible for the programming of the access channel.

Councilor Pantelakos advised the City Council that there is a studio at the High School and suggested that an access channel could be produced from the High School and the students could be part of the project.

Councilor Smith asked if it would be better advised to push this out in later years to keep as a place holder to be identified in the plan which could allow the granting of funds. City Manager Bohenko said it would be in the best interest to push the funding out for a year rather than delete the project in its entirety.

Councilor Dwyer said that we should separate who would operate the studio and that the funding in the plan is for equipment.

City Manager Bohenko said it would be helpful to identify the project in the plan for future years.

Councilor Grasso suggested pushing the funding out two years.

Councilor Grasso withdrew her motion and Councilor Pantelakos the second to the motion.

Councilor Grasso moved to amend the motion to move out the funding two years for the Television Studio project IS-IT-02. Seconded by Councilor Pantelakos.

Councilor Whitehouse said he has heard many concerns relative to an access channel in other communities and the subject matter which appears on those channels.

Councilor Raynolds spoke in support of the access channel and its funding in the plan. He said he understands the points made this evening.

Councilor Smith said he would like the funds moved from the general fund to a public private partnership. City Manager Bohenko said he would move the funding for the Television Studio to be listed as a Public Private Partnership. Councilor Smith said he would like to see operating procedures outlined prior to the equipment being purchased.

Councilor Dwyer said that she is in favor of moving the funding out but wants to see the project identified in the plan.

Mayor Marchand said that you need a plan before making the capital investment on an item. City Manager Bohenko said that the Cable Television Communications Commission has put a great deal of time and effort on this matter. He spoke to the work session held with the City Council and the Cable Television Communications Commission outlining this project and other items of importance that the Commission has been and continues to deal with.

Amendment to the motion passed.

Councilor Whitehouse said he is concerned with the project for the Market Street Sidewalk Expansion and Pedestrian Improvements. City Manager Bohenko said that this project was identified by the Downtown Business Association and others. The sidewalks are not sufficient to accommodate the volume of use and the width needs to be increased. He also spoke to improvements to the period lighting for the area. City Manager Bohenko said that this is a continual effort to improve the gateway of the city. Councilor Whitehouse said that we are changing the last of the old City of Portsmouth. He spoke opposed to making this look like any other city in the United States and requested that the appearance of the downtown remain the same.

Councilor Whitehouse moved to amend the motion and move the funding for the Market Street Sidewalk Expansion & Pedestrian Improvements Project TSM-CITY-14 out to FY09.
Seconded by Councilor Grasso.

City Manager Bohenko said that this project has come out of years of discussion and input has been received from multiple areas.

Councilor Smith said that he would vote against the amendment and that the improvements are needed and he feels the changes are bringing the area back to the historic look of the downtown of years past.

Councilor Raynolds said he agrees with the comments made by Councilor Smith and that the improvements restore it to the old charm.

Councilor Pantelakos advised Councilor Whitehouse that there have been many meetings with the businesses downtown and they are in favor of the proposal.

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

Main motion passed as amended.

2. Report Back Re: Regulation of Amusement Parks/Outdoor Recreation in the Industrial & General Business Districts

City Manager Bohenko advised the City Council as a result of the October 23rd work session with the Planning Board, Assistant Mayor Ferrini requested that City staff provide a zoning ordinance amendment that would have the effect of regulating amusement parks/outdoor recreation within the Industrial & General Business districts. On December 4, 2006, the City Council voted to refer this matter to the Planning Board for a report back. The Planning Board has considered this matter and voted to report back a recommendation to Council to adopt the attached amendment to the Zoning Ordinance.

Councilor Grasso moved to accept the Planning Board's report back on this matter and schedule a first reading on the proposed ordinance change for April 4, 2007. Seconded by Councilor Whitehouse and voted.

3. Legislative Delegation Meeting with City Council

City Manager Bohenko said at the last City Council meeting there was a request for another meeting with the Legislative Delegation. Representative Powers, Chairman of the City's Legislative Delegation, has advised that "Crossover Day", which is the day that House Bill's are sent to the Senate and Senate bills are sent to the House, will take place on Thursday, April 12th. He is suggesting that subsequent to Crossover Day the City Council meet with the Legislative Delegation prior to its regular City Council meeting on April 16th. City Manager Bohenko suggested the City Council meet with the Legislative Delegation at 6:00 p.m. in a work session.

Councilor Hynes moved to meet with the Legislative Delegation on Monday, April 16, 2007 at 6:00 p.m. Seconded by Councilor Grasso and voted.

Informational Items

1. City Council Work Session Re: Adolescent Needs in the Middle School and Smart Growth and the Construction of Schools

City Manager Bohenko advised the City Council an agenda has been provided for the City Council Work Session scheduled for Wednesday, March 28, 2007 at 6:30 p.m. in the Eileen Dondero Foley Council Chambers, regarding adolescent needs in the middle school and smart growth and the construction of schools.

B. MAYOR MARCHAND

1. Appointments to be Voted:

- Thomas Heany, Portsmouth Housing Authority

Councilor Pantelakos moved to appoint Thomas Heany to the Portsmouth Housing Authority filling the unexpired term of Angelo Pappas until April 1, 2011. Seconded by Councilor Grasso and voted.

- Charles LeMay, Zoning Board of Adjustment

Councilor Pantelakos moved to appoint Charles LeMay as a regular member of the Zoning Board of Adjustment filling the expired term of Duncan MacCallum until December 1, 2012. Seconded by Councilor Grasso and voted.

- Thomas Grasso, Alternate to the Zoning Board of Adjustment

Councilor Pantelakos moved to appoint Thomas Grasso as an alternate to the Zoning Board of Adjustment filling the unexpired term of Charles LeMay until December 1, 2008. Seconded by Councilor Smith and voted. Councilor Grasso abstained from voting.

- Elena Maltese, Alternate to the Historic District Commission

Councilor Grasso moved to appoint Elena Maltese as an alternate to the Historic District Commission filling the unexpired term of Sandra Dika until June 1, 2009. Seconded by Councilor Pantelakos.

Councilor Smith advised the City Council that he was contacted regarding this appointment and Ms. Maltese's short time as a resident of the city.

Mayor Marchand asked City Attorney Sullivan if there is a rule on this situation. City Attorney Sullivan advised the City Council that there is no rule relative to residence and this appointment.

Councilor Grasso said that the City Council has voted through individuals that have only been a resident of the city for 6 or 9 months. She advised the City Council that she would like to see the City Council pass a policy that you must be a resident of the city for two years in order to be appointed to serve on a committee. Mayor Marchand said that this issue could be brought forward at a future meeting for consideration.

Motion passed.

2. Reports

Mayor Marchand read a thank you letter from former Mayor Eileen Dondero Foley for the recent dedication ceremony held in her honor to name the City Council Chambers in her name.

C. ASSISTANT MAYOR FERRINI

1. Term Limits

Assistant Mayor Ferrini spoke to the creation of City Council Rule #47 dealing with appointments to boards and commissions. He said that this recommended rule comes in part from the Mayor's Blue Ribbon Committee on Boards and Commission Appointment Process. He said that City Attorney Sullivan has drafted the proposed rule.

Assistant Mayor Ferrini moved to adopt City Council Rule #47 – Appointments to Boards and Commissions: Unless otherwise required by statute or ordinance, the Mayor shall not bring forward for re-appointment to any Board or Commission the name of any person who shall have served ten (10) or more consecutive years on the same Board or Commission prior to the effective date of the requested reappointment. Seconded by Councilor Whitehouse.

Assistant Mayor Ferrini said that we want to ensure that we do not have any unintended consequences and it makes sense to get more people involved in the system.

Councilor Pantelakos said that she is not in favor of term limits but would support the motion if that is the direction the City Council would like to take on this matter. She expressed concern with having everyone on a board not being able to serve in the future because they have met the term limit requirement.

Councilor Dwyer suggested making an adjustment that the requirement of term limits not apply to current chair or vice chairs of committees.

City Attorney Sullivan said a City Council Rule allows flexibility. He advised the City Council that a number of Taxi Commission members would not be allowed to be reappointment by the creation of this rule. However, the City Council on a case by case basis could suspend the rule by a two-thirds vote.

Councilor Smith said he is not a fan of term limits. He said he served on the Planning Board at the request of the Mayor. He said the Mayor can make the decision at any time if they want a person to remain on a board and/or commission. Councilor Smith spoke to the importance of institutional knowledge for a board and/or commission. He said the City Council should be looking to the creation of a procedure for the removal of a member from a board or commission rather than creating term limits.

Mayor Marchand advised the City Council because this would be a City Council Rule it could easily be changed by a vote of the City Council.

Councilor Pantelakos said a rule is a rule and it should not be bent. She advised the City Council that we could potentially lose a great deal of individuals to serve on these boards and commissions by the adoption of this rule.

Councilor Raynolds said that he is surprised by the amount of comment on the negative effect of term limits, for a 10 year limit, which is a great length to serve. He advised the City Council that the Blue Ribbon Committee created by the Mayor did a great deal of research and reviewed this matter in detail.

Assistant Mayor Ferrini said that it is important to remember that some Mayor's are better than others in dealing with appointments and this rule change takes that away and makes the process more democratic.

Councilor Dwyer said that we want more individuals to become involved in the community. She said that she agrees with Councilor Pantelakos and this rule should not change on a whimsical basis.

Councilor Hynes said that the City Council changes every two years with the election process and this rule could potentially change with each new Council.

Councilor Smith informed the City Council with a 10 year limit for the Planning Board it would allow you to work on 1 Master Plan. He said there is a lack of appreciation at times to serve on boards and commissions. He said until he sees an abundance of people wanting to serve on these boards and commissions he would not support term limits.

Councilor Grasso said she does not feel that 10 years is a long time to serve on some of the boards and commissions. She said it is a learning process and that if term limits are going to be created they should be longer than 10 years.

Mayor Marchand said that this is an elegant simple rule which can be evaluated by each new Council.

Councilor Pantelakos said the individuals that serve on these boards and commissions are volunteers that put a great deal of time and effort in serving. She advised the City Council that term limits take away the experience of a board and/or commission.

Councilor Raynolds said making a discretionary decision not to reappoint someone is a hard thing to do. He said term limits help the Mayor and strikes a balance.

On a roll call 5-4, motion passed. Assistant Mayor Ferrini, Councilors Dwyer, Raynolds, Whitehouse and Mayor Marchand voted in favor. Councilors Grasso, Pantelakos, Smith and Hynes voted opposed.

D. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the March 8, 2007 meeting

Councilor Pantelakos moved to approve and accept the action sheet and minutes of the March 8, 2007 Traffic & Safety Committee meeting. Seconded by Councilor Hynes and voted.

2. Parking Committee Action Sheet and Minutes of the March 8, 2007 meeting

Councilor Smith moved to approve and accept the action sheet and minutes of the March 8, 2007 Parking Committee meeting. Seconded by Councilor Hynes and voted.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Dwyer said that she feels we need to do more of an outreach to get individuals involved in serving on boards and commission. She spoke to the creation of a nominating committee for boards and commission. She said the process needs to be reviewed and whether it is too much to place the burden on one person.

Councilor Grasso said that the City Council needs to review the residency requirement issue as well for serving on boards and commission.

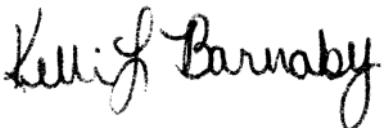
Councilor Smith said that the City Council should create a procedure for the removal of an individual from a board or commission.

Assistant Mayor Ferrini said that the City Council could consider conducting a work session on these matters and invite the Mayor's Blue Ribbon Committee on the Appointment Process for Boards and Commissions to attend and provide input.

Councilor Pantelakos spoke to the informational item received from Tibor Toth of Epping Auto Salvage expressing their opposition to the closing of the Port to Grimmel Industries as proposed by the Pease Development Authority. She said it is a concern to her that Portsmouth serves as a salvage dump for Epping.

XIV. ADJOURNMENT

At 10:00 p.m., Councilor Whitehouse moved to adjourn. Seconded by Councilor Pantelakos and voted.



Kelli L. Barnaby, CMC
City Clerk