

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, SEPTEMBER 17, 2007

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

At 6:00 p.m., a Reception for the Fire Department Sculpture was held in the Portsmouth Room.

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 – AMERICAN LEGION – POSTING OF THE COLORS

Members of the American Legion Color Guard posted the colors.

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

MAYOR'S AWARDS

1. Little League 9-10 years old State Champions

Mayor's Awards and shirts were presented by Assistant Mayor Ferrini and Mayor Marchand to the 9-10 year old Little League State Champions.

2. Little League 11-12 years old State Champions

Mayor's Awards and shirts were presented by Councilor Smith and Mayor Marchand to the 11-12 year old Little League State Champions.

PROCLAMATIONS

1. America Legion Color Guard

Councilor Whitehouse read the Proclamation in recognition of Frank E. Booma American Legion Post 6 Color Guard winning the 2007 American Legion National Color Guard Competition. Mayor Marchand presented the Proclamation to Carl Walton who accepted it with thanks and appreciation.

2. International Day of Peace

Mayor Marchand read the Proclamation declaring Friday, September 21, 2007 as International Day of Peace throughout the City of Portsmouth.

3. Daughters of the American Revolution Constitution Week

Mayor Marchand read the Proclamation declaring the week of September 17, 2007 through September 23, 2007 as Constitution Week 2007. The Daughters of the American Revolution accepted the Proclamation with thanks and appreciation.

4. International Walk to School Day

Councilor Raynolds read the Proclamation declaring October 3, 2007 as International Walk to School Day in the City of Portsmouth.

Assistant Mayor Ferrini moved to suspend the rules in order to take up Item VIII. B. – Acceptance of Public Service of New Hampshire Energy Rebate Re: Deer Street Pump Station. Seconded by Councilor Smith and voted.

B. Acceptance of Public Service of New Hampshire Energy Rebate Re: Deer Street Pump Station

Assistant Mayor Ferrini moved to approve and accept an energy rebate in the amount of \$83,278.00 from Public Service of New Hampshire, as listed. Seconded by Councilor Smith.

Deputy Public Works Director Allen spoke to the Deer Street Pump Station project and advised the City Council that the Public Works Department is fortunate to have a great relationship with Public Service of New Hampshire. A representative of Public Service of New Hampshire informed the City Council that energy rebates are available to the public and they are pleased that the City of Portsmouth was able to participate in the rebate program.

Motion passed.

V. ACCEPTANCE OF MINUTES – AUGUST 20, 2007

Councilor Pantelakos moved to approve and accept the minutes of the August 20, 2007 City Council meeting. Seconded by Councilor Smith and voted.

VI. PUBLIC COMMENT SESSION

Michael Goot, Foster's Daily Democrat, announced that he will be leaving Foster's to take a position with the Daily Gazette in Schenectady, New York. He said that he has enjoyed working with the City of Portsmouth and its staff over the years.

Peter Bresciano spoke regarding House Bill 404 regarding the enforcement of immigration laws. He informed the City Council that this bill prohibits state and local law enforcement agencies from enforcing federal immigration laws.

George Hurtt addressed his parking request in front of his home on New Castle Avenue which was referred by the City Council to the Traffic & Safety Committee and recently denied. He informed the City Council that the denial of the Committee was not based on the evidence provided, but was a personal issue. Mr. Hurtt discussed the petition that included 15 residents' signatures in favor of the parking request. He said that there was not objective criteria used in the decision and asked for the oversight of the City Council on this matter.

Peter Somssich announced that the Labor/Peace Treaty Parade will be held this Sunday, September 23, 2007 and invited the participation of the City Council. He advised the City Council that it is hoped that this will become an annual event in the City. Mr. Somssich thanked City Manager Bohenko and his staff for their help in organizing the event.

VII. PUBLIC HEARINGS

A. BARTLETT-ISLINGTON STREET SEWER SEPARATION PROJECT CONCERNING THE PUBLIC NECESSITY FOR OBTAINING PERMANENT EASEMENTS OR OTHER REAL PROPERTY INTERESTS IN CONNECTION WITH THE PROJECT

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

City Manager Bohenko asked Water and Sewer Engineer Rice and Assistant City Attorney Woodland to provide a brief summary of the project. Water and Sewer Engineer Rice briefly explained the project and its location. He advised the City Council that there are sections of pipe that have collapsed and are in need of repair and this project will assist with flooding in the Bartlett-Islington Street areas. He informed the City Council that the project has been mandated by the Environmental Protection Agency and we must proceed forward. He spoke to the meetings that have taken place with property owners in an effort to achieve easements and with the exception of the railroad we have attained agreements with all property owners. Assistant City Attorney Woodland spoke to the public necessity requirements in connection with the project. She advised the City Council that the railroad prefers not to issue easements, but rather have a taking of the property take place.

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

B. ORDINANCE AMENDING CHAPTER 10, ARTICLE I, SECTION 10-102 – DEFINITIONS – LIGHT INDUSTRY AND CHAPTER 10, ARTICLE XV, BY THE CREATION OF A NEW SECTION 10-1508 ENTITLED NON-RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD-NR)

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

City Manager Bohenko asked that Deputy City Manager Hayden provide a synopsis of the ordinance. Deputy City Manager Hayden said that there was consensus from the City Council that the Planning Board should revise the ordinance to reflect key issues raised in discussions and previous public input. Revisions incorporated in the ordinance include expansion of the sections describing landscape buffer requirements as they relate to residential zones; clarification of dimensional requirements (setbacks), which are now in tabular form; and deletion of the section that allowed the Planning Board to waive site review requirements. She also referred to the amendments made by the City Council at the August 20th meeting to change under "Any Use", the front yard dimension from 50 feet to 75 feet; and further, to amend by striking Item 7 regarding the Planning Board's discretion to waive parking requirements.

Mark Allison, Portsmouth resident, presented a petition to the City Council with an additional 179 names for a total of 392 signatures in opposition to the proposed ordinance. He advised the City Council that many residents are tired of forced development in their neighborhoods. He feels that the Master Plan can be interpreted in many different ways. Mr. Allison said that the residents want the land developed, just not for this type of use. He urged the City Council to take into consideration the impact this proposed ordinance would have on the neighborhood and its residents when making their decision.

Tony Coviello, Portsmouth resident and Planning Board member, discussed the property in question and the existing uses in the area. He said when uses are permitted there is little that the Planning Board can do. He discussed permitted uses and special exceptions, and said many times the use does not meet the Office Research District and the PUD provides mix use. Mr. Coviello informed the City Council that the Planning Board is recommending the approval of the ordinance because they are following the Master Plan. He spoke in favor of the ordinance and said it provides for new ideas. Further, the Planning Board will do what is right for the City and they are thoughtful in their decisions and listen to the residents. In closing, he advised the City Council that the Planning Board has unanimously recommended the ordinance twice for approval by the City Council.

Bill St. Laurent, Portsmouth resident, said he does not reside in the neighborhood in question but spoke in favor of the residents fight for what they believe in. He said that these residents have had to fight on several occasions to preserve their neighborhood and asked that the City Council listen to their concerns and take them into consideration when making a decision.

Kathleen Hersey, Portsmouth resident, spoke opposed to the ordinance and said that industrial plants do not belong in a residential area. She spoke to the other businesses located on Lafayette Road and said that the residents understand that the land will be developed but they are against this ordinance and the proposed developments that could occur. Ms. Hersey urged the City Council to protect this neighborhood as they have other areas of the City.

Tim Ellis, Portsmouth resident, spoke opposed to the ordinance and said that the residents have asked many times not to approve the ordinance and feel that the City Council is not listening to their concerns. Mr. Ellis said that there is a need for the residents and neighborhoods to co-exist and if this ordinance is passed the residential values will go down. He asked that the City come up with a proposal that would fit the neighborhood and property. In closing, Mr. Ellis advised the City Council that the residents do not want to live next to something that will affect their quality of life.

Tom Grasso, Portsmouth resident, spoke against the ordinance and said it would affect the quality of life for the residents. He spoke to Councilor Raynolds letter to the editor in May stating that the City Council's disapproval of the ordinance would cause the City to lose a business that would do well in the City. He said that this may bring up ethical questions with Councilor Raynolds and asked that Mayor Marchand ask Councilor Raynolds to step down from the proceedings this evening. He urged the City Council to oppose the ordinance.

Patricia Allison, Portsmouth resident, said that she spoke against the ordinance in May and advised the City Council that she is not opposed to business in the City but is opposed to this type of zoning and its potential affects on the neighborhoods and residents. She advised the City Council that the residents are opposed to light industry on Lafayette Road.

David Palumbo, Portsmouth resident, said he is opposed to the ordinance and feels for the residents of the area. He said if a brewery is located at this site it will cause a stench that will affect the quality of life for the residents. Mr. Palumbo urged the City Council to oppose the ordinance and its recommended type of uses.

Elizabeth Staulcup, Portsmouth resident, said that she and the residents here this evening are opposed to this ordinance. She advised the City Council that all but two homes on Lafayette Road are opposed to the ordinance, which speaks volumes. Ms. Staulcup spoke to the potential affect on resident's values. She urged the City Council to oppose the ordinance and to listen to the resident's.

Nason Reid, Portsmouth resident, said that Councilor Dwyer has said that this ordinance is a vehicle and the City Council needs to accept the recommendation of the Planning Board at face value. He said based on the comments of Mr. Coviello it seems like the Planning Board is taking this personally. Mr. Reid said that the residents do not want light industry at this location. He spoke to the industrial park located 500 feet from the proposed property and said that is where this type of development belongs, not in a residential area.

George Dempsey, Portsmouth resident, spoke to the number of projects coming into the City and said that this is not a campus style development. He said he feels that the City Council is advocating for a business owner and not the residents of the area. He urged the City Council to listen to the residents and their concerns. Mr. Dempsey said that the City Council needs to preserve the quality of life for all residents and neighborhoods.

Tony Coviello, Portsmouth resident and Planning Board member, said that the Planning Board does not take the comments made personally. He said that this proposed use is friendlier for the neighborhood. Mr. Coviello urged the City Council to ask the question, is there any light industry use that they would approve of when making their decision this evening.

Ryan Russman, Portsmouth resident, said that the neighborhood feels like they are under siege. He advised the City Council that the neighborhood is not in favor of any type of light industry use. He urged the City Council to consider the neighborhoods concerns when making their decision.

Tim Ellis, Portsmouth resident, said that there is no rush to change the zoning this evening, no one is in line to purchase the property. He requested that the residents be allowed to sit with the Planning Board to fix the ordinance and make something that is acceptable to the neighborhood and its residents. Mr. Ellis said that we should all work together to come to a solution.

Mark Allison, Portsmouth resident, urged the City Council to use caution in considering the proposed zoning. He asked that the City Council stop the sprawl effect that is occurring in the City.

Louie Georgopoulos, Portsmouth resident, said he owns one of the parcels in question and advised the residents that Smutty Nose Brewery is not interested in the property. He informed the residents that sooner or later, something will be built and developed at the location. Mr. Georgopoulos asked the City Council to consider the two unanimous votes of the Planning Board recommending this ordinance when making their decision this evening.

Bill St. Laurent, Portsmouth resident, said that he was here this evening to speak as an individual and not a representative of the Association of Portsmouth Taxpayers.

Nason Reid, Portsmouth resident, spoke to a map he received from the Water and Sewer Department showing one of the proposed properties in the ordinance located on Borthwick Avenue, which are wetlands. He said he feels that the City proposed the Borthwick Avenue location so this ordinance could not be considered spot zoning. He urged the City Council to vote opposed to the ordinance.

George Dempsey, Portsmouth resident, expressed concern relative to the process and preparation of the ordinance.

Tony Coviello, Portsmouth resident and Planning Board member, said if a business is located at the site and closes and a new business seeks to open, it would then trigger the site review process again.

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

Assistant Mayor Ferrini moved to suspend the rules in order to take up Item IX. E. - Second reading of Ordinance amending Chapter 10, Article I, Section 10-102 – Definitions – Light Industry and Chapter 10, Article XV, by the creation of a new Section 10-1508 entitled Non-Residential Planned Unit Development (PUD-NR). Seconded by Councilor Raynolds and voted.

Assistant Mayor Ferrini moved to table the ordinance. Seconded by Councilor Raynolds.

Assistant Mayor Ferrini said that it would probably be best if the ordinance was sent back to the drawing board. He spoke to referring the ordinance back to the Planning Board in May for further review, but feels it is not where it needs to be at this point for passage.

Councilor Hynes said ultimately the City Council makes the policy decisions and that is how it should remain. He said that the Planning Board has the responsibility to study growth in the City and to see that zoning is carried out. Councilor Hynes advised the City Council that he would oppose the tabling motion.

Councilor Smith said he would vote against the tabling motion, as he feels that a decision on the ordinance should be made this evening. Councilor Whitehouse said he agrees, and would not vote to table the ordinance. Councilors Pantelakos and Grasso also said that she would oppose the tabling motion. Councilor Grasso said that the residents have come forward to express their opposition and the City Council needs to consider their thoughts and concerns regarding this matter.

Councilor Dwyer asked Assistant Mayor Ferrini to explain why he has brought forward a motion to table the ordinance. Assistant Mayor Ferrini said it was his intent to deny the ordinance and tabling to a time uncertain would accomplish that.

Councilor Raynolds said he seconded the motion, but in light of the discussion the best way to move forward is to vote the ordinance down and create a clean slate.

On a roll call vote 0-9, motion to table failed to pass.

Councilor Grasso moved to deny second reading of the ordinance. Seconded by Councilor Pantelakos.

Councilor Grasso read a letter submitted by Service Credit Union in opposition to the ordinance.

Councilor Pantelakos apologized to the residents and said that this issue should have been resolved in May instead of sending it back to the Planning Board for further review.

Councilor Dwyer said that the public process allows debate from both sides of the issue. She thanked people for continuing the process and identifying the elements of concern. Councilor Dwyer informed the City Council that this is part of a comprehensive zoning review that will continue for another year. She said that we will see this again here and in other places, these are different ways to help get control of the property. Councilor Dwyer indicated that parking in the back of buildings is something that is happening across the country. In closing, Councilor Dwyer indicated that the neighborhood and Planning Board can come together on a comprehensive zoning review.

Councilor Whitehouse said that he would support the motion to deny second reading of the ordinance, as the residents have strongly expressed their views relative to the ordinance.

Mayor Marchand passed the gavel to Assistant Mayor Ferrini.

Mayor Marchand said that Councilor Dwyer mentioned that this is a small piece of a larger process moving forward. He said one of the concepts looking forward is creating parking behind buildings which would affect the residential area. Mayor Marchand said that is a point that cannot get lost.

Assistant Mayor Ferrini returned the gavel to Mayor Marchand.

Assistant Mayor Ferrini thanked the public for coming out this evening to express their views. He said it is important that we reach out to one another in planning how our City moves forward.

Councilor Smith spoke to putting this ordinance to rest once and for all. He said that the Master Plan is a Planning Board document to set a direction of ideas.

Councilor Dwyer asked that Assistant City Attorney Woodland explain that the City Council does not have the kind of control people may think over existing zoning regulations.

On a unanimous roll call 9-0, voted to deny second reading of the ordinance.

At 10:15 p.m., Mayor Marchand declared a brief recess. Mayor Marchand called the meeting back to order at 10:25 p.m.

At 10:25 p.m., Councilor Smith moved to suspend the rules in order to continue the meeting beyond 10:00 p.m. Seconded by Assistant Mayor Ferrini and voted.

VIII. APPROVAL OF GRANTS/DONATIONS

A. Acceptance of Grant for Household Hazardous Waste Collection

Assistant Mayor Ferrini moved to accept and expend a \$4,210.39 DES grant for the purpose of household hazardous waste collection events and authorize the City Manager to execute any documents which may be necessary for this grant contract. Seconded by Councilor Smith and voted.

- C. Acceptance of Donation to the New Library Building Fund
- Barbara Louise Sylvester - \$950.00

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

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance amending Chapter 6, Article XIII, Section 6.1305 – Prohibited Conduct – Vendor – Vending shall be prohibited after midnight and before 7:00 a.m.

Councilor Grasso moved to pass first reading and hold a public hearing and second reading at the October 1, 2007 City Council meeting. Seconded by Councilor Whitehouse.

Councilor Smith moved to amend the ordinance to prohibit vending after 1:30 a.m. and before 7:00 a.m. Seconded by Councilor Whitehouse.

Councilor Dwyer said that one of the issues is that people gather around the vendors during the late evening. She said that public input is needed on this matter and no amendment should be made until second reading.

Councilor Reynolds said he would not support the amendment this evening but may support it after the public hearing is held and input is received. He asked Councilor Smith to consider withdrawing his motion and offering it at second reading.

Mayor Marchand said he agrees with the comments made by Councilor Reynolds and Councilor Smith should consider withdrawing his amendment at this time.

Assistant City Attorney Woodland said that it is a simple amendment which could take place during second reading.

Councilor Smith withdrew his amendment and Councilor Whitehouse his second to the motion.

Main motion passed.

- B. First reading of Ordinance amending Chapter 16 by the addition of a new Article II entitled – Regulation of Discharges into Storm Water Drainage System

Councilor Whitehouse moved to pass first reading and hold a public hearing and second reading at the October 1, 2007 City Council meeting. Seconded by Councilor Grasso and voted.

- C. First reading of Resolution Authorizing the Borrowing Through the State Revolving Fund (SRF) Loan Program, A Bond Issue and/or Notes for Costs Related to the Rye Line Pump Station Upgrade not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00)

Councilor Grasso moved to pass first reading to authorize bonding in the amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) for the Rye Line Pumping Station Upgrades and schedule public hearing and adoption at the October 1, 2007 City Council meeting. Seconded by Assistant Mayor Ferrini and voted.

- D. Adoption of Resolution Regarding Bartlett-Islington Street Sewer Separation Project Concerning the Public Necessity for Obtaining Permanent Easements or Other Real Property Interests in Connection with the Project

Councilor Reynolds moved to adopt the aforementioned Resolution, as submitted. Seconded by Councilor Smith and voted.

- F. Third and final reading of Ordinance amending Chapter 9 - Miscellaneous Public Welfare by the addition of a new Article VIII entitled Boarding Houses

Assistant Mayor Ferrini moved to pass third and final reading, as submitted. Seconded by Councilor Whitehouse and voted.

- G. Third and final reading of Ordinance amending Chapter 7, Article III, Section 7.335 – Use of Parking Lot Item D deleted in its entirety and amending Chapter 7, Article IX, Section 7.9 – Penalties, Forfeitures and Separability amending Section 7.901 by the addition of a new Item H – 72 Hour Parking Restrictions

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

Assistant City Attorney Woodland discussed the City Council control over existing zoning regulations at the request of Councilor Dwyer. Assistant City Attorney Woodland said when a use is permitted under the zoning ordinance the Planning Board has an obligation to approve anything that meets the permitted use. She advised the City Council that they have very little role in that circumstance.

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Donations for the New Library Building Fund
- Constance and David Greer - \$500.00 (*Fulfills pledge*)
 - Daniel and Sofe Buckson - \$50.00

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

- B. Acceptance of Donation to the Cemetery Committee
- Franklin and Barbara Roth - \$100.00

(Anticipated action – move to approve and accept the donation to the Cemetery Committee)

- C. Acceptance of Police Department Donation
- Anonymous toward Patrol Gasoline Expenses - \$100.00

(Anticipated action – move to approve and accept the donation to the Portsmouth Police Department, as listed)

- D. Letter from Zhana Morris, The Music Hall, requesting permission for parking meter bags for the 2007-2008 Season ***(Anticipated action – move to refer to the City Manager with power)***
- F. Invitation from Peter Somssich inviting the City Council to participate in the Labor/Portsmouth Peace Treaty Parade on September 23, 2007 at 2:00 p.m. ***(Anticipated action – move to accept and place the letter on file)***

Councilor Whitehouse requested that Item E - Letter from Charles Lassen and Allen Nelson, Friends of the South End regarding Infrastructure Improvements to South End be removed from the Consent Agenda.

Councilor Dwyer moved to adopt the Consent Agenda. Seconded by Councilor Whitehouse and voted.

- E. Letter from Charles Lassen and Allen Nelson, Friends of the South End regarding Infrastructure Improvements to South End ***(Anticipated action – move to accept and place the letter on file)***

Councilor Smith moved to accept and place the letter on file. Seconded by Councilor Pantelakos and voted.

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Request from Pamela Bishop, The First National Bank of Ipswich, for a sidewalk obstruction license to place 1 A-frame sign in front of establishment

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

- B. Letter from Attorney Malcolm McNeill, Jr., McNeill, Taylor & Gallo, Re: Easement and License Plan for HarborCorp, LLC and City of Portsmouth

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

- C. Letter from Tom Hall, The Portsmouth Maritime Folk Festival, requesting permission to hold outdoor performances in Market Square on Sunday, September 30, 2007

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

- D. Letter from Melvin "Sandy" Trefethen Re: Fernald Court Water Access Resolution

Assistant Mayor Ferrini moved to refer to the City Manager for report back. Seconded by Councilor Whitehouse.

City Manager Bohenko advised the City Council that the report back will be through City Attorney Sullivan. He informed the City Council that the report will provide a complete history on the matter.

Motion passed.

- E. Letter from Lisa DeStefano, DeStefano Architects, requesting the City allow the exterior exit doors of 2 Ceres Street (Poco's Cantina) be allowed to swing past the exterior wall 9 inches beyond the property line

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

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Establish Date for Recognition of Board Service Event

Councilor Hynes moved to establish Wednesday, November 28, 2007 for the Recognition of Board Service Event. Seconded by Councilor Smith and voted.

2. Polling Hours for November 6, 2007 Municipal Election

Councilor Smith moved to set the polling hours from 8:00 a.m. to 7:00 p.m. for the Municipal Election on Tuesday, November 6, 2007. Seconded by Councilor Pantelakos.

Councilor Dwyer said that she would like to see the hours extended to 8:00 p.m. for individuals that commute outside of the City. City Clerk Barnaby explained the change in the law last year which allows individuals that are commuting outside of the City to obtain absentee ballots.

Councilor Dwyer moved to amend the polling hours from 8:00 a.m. to 8:00 p.m. Seconded by Councilor Reynolds.

Councilor Smith said that he would not support this motion and feels it is important to hear from the City Election Officials on this matter. Assistant Mayor Ferrini said that there are fewer voters in the Municipal Election. Councilor Pantelakos said that it is difficult to get staff to work the polls now and if you extend the hours it will be increasingly more difficult. Assistant Mayor Ferrini said as a former Election Official of the polls the number of voters that in the past have utilized the polls after 7:00 p.m. does not justify the increase in hours. Councilor Grasso said it is the City Clerk's job to set the hours and the City Council should support her recommendation. Mayor Marchand said he refers to the City Clerk's judgment on the polling hours.

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

Main motion passed.

3. Acceptance of Management Agreement between City of Portsmouth and NH Department of Transportation Re: Scott Avenue Bridge

City Manager Bohenko advised the City Council that the State Department of Transportation will manage the Scott Avenue Bridge project.

Councilor Smith moved to authorize the City Manager to enter into an Agreement, as presented to the Council, with the New Hampshire Department of Transportation for the replacement of the Scott Avenue Bridge – BHF-T-0101(015), 13678. Seconded by Councilor Pantelakos and voted.

4. Letter from Portsmouth Housing Authority Re: Request for 99-year Lease Option on Lafayette School for the Development of Senior Housing

City Manager Bohenko announced that a work session will be held on October 1, 2007 at 6:00 p.m. with the Housing Authority, but this vote allows the Housing Authority to move forward and apply to the federal loan bank for funding. He advised the City Council that the paperwork must be submitted to the federal loan bank by the end of the month.

Councilor Whitehouse moved to authorize the City Manager to negotiate and enter into an option to lease the Lafayette School to the Portsmouth Housing Authority for redevelopment as senior housing. Seconded by Councilor Hynes.

Councilor Dwyer asked about the implications of entering into an option lease for 99-years. Assistant City Attorney Woodland advised the City Council that the option is the first step in the process and there are out clauses contained in the option. She further advised the City Council that the option provides a fair amount of flexibility.

City Manager Bohenko said that this option is similar to the Cottage Housing facility. He informed the City Council that this will get things moving.

Councilor Grasso asked if the land would remain zoned as municipal. Assistant City Attorney Woodland said that would be considered.

Councilor Dwyer asked if the Housing Authority is moving this to the affordable range rather than low income.

Assistant Mayor Ferrini moved to suspend the rules in order to allow Mr. Couture of the Portsmouth Housing Authority to come forward and answer questions of the City Council. Seconded by Councilor Dwyer and voted.

Mr. Couture advised the City Council that the Housing Authority must go 60% of the median income to get the funding rather than moving towards 80%.

Councilor Dwyer expressed concern with moving forward with this option at this late hour. City Manager Bohenko said at some point in the future if there was an outcry by the public Housing Authority would withdraw their request. Mr. Couture concurred with City Manager Bohenko's statement. City Manager Bohenko informed the City Council that the Housing Authority would also need Community Development Block Grant funding to move the project forward. Mr. Couture said if things fall apart the Housing Authority would walk away. Assistant City Attorney Woodland advised the City Council that this matter will go to the Planning Board for approval.

Councilor Smith said he agrees with Councilor Dwyer, but it is important that the record reflect if an outcry occurs the Housing Authority will withdraw. Mr. Couture said he agrees with the comments.

Motion passed.

5. Letter from Mark McNabb, National Block II LLC, Re: License Agreement for 111 State Street

City Manager Bohenko said that the overhang will protrude 12 inches and would allow for the extension of the doorway.

Councilor Whitehouse moved to authorize the City Manager to negotiate and execute a License Agreement with National Block, II, LLC, as presented. Seconded by Councilor Pantelakos and voted.

6. Report Back from Planning Board Re: Icon Realty, LLC Proposed Zoning Amendments

City Manager Bohenko advised the City Council that the Planning Board is not recommending any changes to the zoning map.

Councilor Hynes moved to accept the recommendation of the Planning Board, as presented. Seconded by Councilor Grasso and voted.

Councilor Whitehouse asked City Manager Bohenko when the tax rate would be set. City Manager Bohenko advised Councilor Whitehouse that the Department of Revenue Administration would set the rate sometime in October.

Councilor Smith asked about the status of RFP's for our banking business. City Manager Bohenko advised the City Council that there is no time line at this point, as it is a complex process.

Informational Items

1. Report Back Re: Trustees of the Trust Fund Ms-9 and Ms-10

Councilor Dwyer said that the report from the Trustees of the Trust Fund provides a great deal of information. She said that the City Council should encourage appointees to the Board of Library Trustees have some type of financial background.

B. MAYOR MARCHAND

1. Appointment to be Considered:
- Elias Abelson – Reappointment to Board of Library Trustees
 - John Rice – Appointment to Planning Board

The City Council considered the reappointment of Elias Abelson to the Board of Library Trustees and the appointment of John Rice to the Planning Board. These appointments will be voted on by the City Council at the October 1, 2007 meeting.

2. *Upcoming Appointment Vacancies for the month of October
- 1 Member to the Board of Library Trustees

Mayor Marchand announced that there is one vacancy on the Board of Library Trustees.

3. *Holiday Parade 2007

Mayor Marchand asked City Manager Bohenko to report on this matter. City Manager Bohenko said that we would change the Tree Lighting Ceremony from Friday evening to Saturday with the closing of Pleasant to Porter Streets to the Market Square. He informed the City Council that he would be working with Barbara Massar of Portsmouth Pro on the Tree Lighting and festivities for that evening.

City Manager Bohenko also recommended holding the parade on Sunday afternoon at 2:00 p.m. and using the route that the Labor/Peace Treaty Parade will be using this weekend. City Manager Bohenko said that the parade would be more manageable during the day and currently there is no one to run the parade. He spoke relative to the new State Law relative to floats in parades and the enforcement of the law.

Mayor Marchand said that safety is a concern but he would like to know if the City Council is in favor of holding a Holiday Parade this year. The City Council agreed to hold a parade. Mayor Marchand asked the City Council how they feel about changing the hours of the parade. Councilor Grasso said several years ago former Mayor Sirrell looked at changing the time of the parade but many other communities were holding their parades during the same time, therefore marching bands had committed to the other communities.

Councilor Smith spoke to when he conducted the parades in the early nineties for the Chamber of Commerce. He advised City Manager Bohenko that the route used is for access.

Mayor Marchand said he has spoke with downtown merchants and the parade is a economic drive for them and more customers are generated in the evening rather than the day.

Mayor Marchand asked the City Council for their preference of an evening or day parade. The majority of the City Council would prefer an evening parade.

City Manager Bohenko advised the City Council that he would be requesting the approval of a date and time for the Holiday Parade at the October 1, 2007 City Council meeting.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

XIV. ADJOURNMENT [AT 10:00PM OR EARLIER]

At 11:30 p.m., Assistant Mayor Ferrini moved to adjourn. Seconded by Councilor Whitehouse and voted.



Kelli L. Barnaby, CMC
City Clerk