

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, DECEMBER 3, 2007

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

At 6:15 p.m., an Anticipated "Non-Meeting" with Counsel was held regarding negotiations RSA: 91-A:2, I (b-c).

I. CALL TO ORDER

Mayor Marchand called the meeting to order at 7:15 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 Dwyer led in the Pledge of Allegiance to the Flag.

V. ACCEPTANCE OF MINUTES *(There are no minutes on for acceptance this evening)*

VI. PUBLIC COMMENT SESSION

Sandy Trefethen spoke to the memorandum from City Attorney Sullivan regarding the Fernald Court water access issue. He said that this is the third generation of children that use the dock and urged the City Council to work with the neighborhood on this matter. He suggested that the City Attorney and City Manager meet with the neighborhood to discuss the matter further.

Michael Rainboth said that an opportunity exists whereby the neighborhood would repair the Fernald Court dock and obtain insurance to release the City from any liability. He urged the City Council not to remove the dock until further discussions can take place with the neighborhood.

Joanne Stella Bolduc asked the City Council to hold off taking action to remove the Fernald Court dock until the neighborhood has had an opportunity to meet with City staff. She advised the City Council that the neighborhood has formed an association and filed non-profit organization Articles of Agreement with the Secretary of State and City Clerk. Ms. Bolduc said it is important to the neighborhood that the dock remains.

Bruce Boley spoke in support of keeping the dock at Fernald Court. He asked the City Council to consider the impact on the neighborhood before removing the dock.

Martin Kurowski spoke to the water access on Fernald Court and asked that the City Council take into consideration the importance of the dock to the neighborhood.

Clyde Logue spoke opposed to the removal of the dock on Fernald Court. He said that the dock allows access to the water and urged the City Council to meet with the neighborhood before taking action.

Councilor Reynolds moved to suspend the rules in order to allow for one additional speaker that neglected to sign up for the public comment session. Seconded by Councilor Whitehouse and voted.

Christine Davidson spoke to the importance of the dock on Fernald Court remaining open to the public. She urged the City Council not to vote to remove the dock until the City meets with the neighborhood. She also spoke to the neighborhoods desire to take responsibility and rebuild the dock.

VII. PUBLIC HEARING

A. PUBLIC HEARING OF AMENDMENTS TO CHAPTER 7 – VEHICLES, TRAFFIC PARKING OMNIBUS PARKING ORDINANCE (OCTOBER 1, 2006 – APRIL 30, 2007)

1. SECTION 7.324: LIMITED PARKING - ONE HOUR

A. NO PERSON HAVING CONTROL OR CUSTODY OF ANY VEHICLE SHALL STOP OR CAUSE THE SAME TO STOP OR PARK FOR LONGER THAN ONE HOUR AT ANY TIME BETWEEN THE HOURS OF 8:00 A.M. AND 6:00 P.M., SUNDAYS AND HOLIDAYS NOT INCLUDED, ON THE FOLLOWING STREETS AND LOCATIONS:

~~9. PUBLIC LIBRARY: ALL AREAS ADJACENT TO AND PART OF THE PUBLIC LAND CONTIGUOUS TO THE PUBLIC LIBRARY. (SEE MAP #1)~~

2. Section 7.402: AREAS ESTABLISHED, DESIGNATED, AND DESCRIBED

A. BRIDGE STREET OFF-STREET PARKING AREA

1. ~~THE FIRST FIVE PARKING SPACES ALONG THE BRIDGE STREET SIDE OF THE LOT FROM ISLINGTON STREET SHALL BE DESIGNATED AND MARKED "THIRTY MINUTES PARKING ONLY. (SEE MAP #2)~~

G. WRIGHT AVENUE OFF-STREET PARKING AREA

THE FOLLOWING AREA TO BE KNOWN AS THE WRIGHT AVENUE OFF-STREET PARKING AREA IS HEREBY ESTABLISHED FOR OFF-STREET PARKING OF MOTOR VEHICLES:

THAT PIECE OF LAND BOUNDED BY STATE STREET ON THE SOUTH, THE MEMORIAL BRIDGE TRAFFIC ISLAND ON THE EAST, DANIEL STREET ON THE NORTH AND THE COMMUNITY CENTER ON THE WEST.

ALL OF SAID AREA NOT OTHERWISE DESIGNATED BY THE PLACEMENT OF PARKING METERS SHALL BE LIMITED TO PARKING NOT TO EXCEED 4 2 (FOUR TWO) HOURS AT ANY ONE TIME.

IT SHALL BE UNLAWFUL FOR ANY PERSON TO CAUSE OR PERMIT ANY VEHICLE REGISTERED IN HIS NAME TO BE PARKED IN VIOLATION OF THIS SECTION AND SAID VIOLATION MAY BE SUBJECT TO BE REMOVED BY TOWING.

(SEE MAP #3)

I. OLD PUBLIC LIBRARY OFF-STREET PARKING AREA

ALL AREAS ADJACENT TO AND PART OF THE PUBLIC LAND CONTIGUOUS TO THE OLD PUBLIC LIBRARY ON ISLINGTON STREET ARE HEREBY ESTABLISHED FOR THE OFF-STREET PARKING OF MOTOR VEHICLES. ALL OF SAID AREA IN THE OLD PUBLIC LIBRARY OFF-STREET PARKING AREA IS DESIGNATED AS A TWO-HOUR PARKING METER ZONE. **(SEE MAP #1)**

3. SECTION 7-A.402: BUS STOPS DESIGNATED

- D. HANOVER STREET: SOUTHERLY SIDE OF HANOVER STREET 140 FEET EAST OF FLEET STREET TO A POINT 285 FEET EAST OF FLEET STREET FROM A POINT LOCATED 100 FEET WEST OF MARKET STREET TO A POINT 54 FEET WESTERLY. **(SEE MAP #4)**

4. SECTION 7A.406: HORSE DRAWN CARRIAGES

- ~~A. THERE IS HEREBY ESTABLISHED AN AREA COMPRISED OF ONE PARKING SPACE ON THE WESTERLY SIDE OF PLEASANT STREET ADJACENT TO CONGRESS STREET TO BE MARKED, "HORSE AND CARRIAGE STAND, 12 NOON TO 12 MIDNIGHT". ALL VEHICLES PARKING IN THAT LOCATION IN CONTRAVENTION OF THIS LIMITATION SHALL BE SUBJECT TO TOWING BY THE CITY WITH THE COSTS TO BE BORNE BY THE OWNER OF THE VEHICLE.~~ **(SEE MAP #5)**

5. SECTION 7A- 408: TAXI STANDS DESIGNATED

THE FOLLOWING AREAS ARE HEREBY DESIGNATED AS TAXI STANDS:

- A. ~~HIGH STREET: EASTERLY SIDE, FIRST TWO PARKING SPACES FROM MARKET SQUARE. PLEASANT STREET: EASTERLY SIDE, FIRST PARALLEL PARKING SPACE NORTH OF STATE STREET.~~ **(SEE MAP #6)**
- B. MARKET STREET:
1. WESTERLY SIDE, SECOND PARKING SPACE FROM MARKET SQUARE.
2. EASTERLY SIDE, FIRST PARKING SPACE NORTH OF BOW STREET, FROM 10:00 P.M. TO 6:00 A.M. ONLY. **(SEE MAP #7)**
- C. HANOVER STREET: SOUTHERLY SIDE, FIRST PARKING SPACE WEST FROM THE BUS STOP. **(SEE MAP #8)**

6. SECTION 7.601: TRUCK LOADING/UNLOADING ZONES ESTABLISHED

UNLESS OTHERWISE DESIGNATED BELOW, THE FOLLOWING LOCATIONS ARE ESTABLISHED AS EXCLUSIVE "TRUCK LOADING ZONES" ON MONDAYS THROUGH SATURDAYS BETWEEN THE HOURS OF 6:00 A.M. AND 7 6:00 P.M. DURING THESE TIMES ONLY TRUCKS, VANS AND OTHER COMMERCIAL DELIVERY VEHICLES ENGAGED IN LOADING OR UNLOADING OF PRODUCT, MERCHANDISE OR EQUIPMENT MAY PARK. SUCH VEHICLES MAY PARK AT THE DESIGNATED LOCATIONS FOR A PERIOD NOT TO EXCEED 30 MINUTES. UNLESS OTHERWISE DETERMINED BY ORDINANCE, AT ALL OTHER TIMES THESE ZONES SHALL BE OPEN PARKING FOR ALL VEHICLES. **(NO MAP ATTACHED)**

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

City Manager Bohenko asked Parking Manager Jon Frederick to make a brief presentation to the City Council outlining the various amendments to the ordinance. Parking Manager Frederick spoke to the pilot program whereby amendments are put in place for a one year period before making any permanent changes to the ordinance. He spoke to the eight recommended changes and reviewed each map depicting the amendments.

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

Assistant Mayor Ferrini moved to suspend the rules in order to bring forward a Proclamation on 2007 Human Rights Day. Seconded by Councilor Pantelakos and voted.

PROCLAMATION (Not on agenda)

1. 2007 Human Rights Day

Mayor Marchand read the Proclamation declaring December 10, 2007 as Human Rights Day. Mayor Marchand announced that this Proclamation would be presented to Peter Somssich at a future event.

VIII. APPROVAL OF GRANTS/DONATIONS

A. Acceptance of Grant from the Bureau of Justice Assistance to the Portsmouth Police Department for Bulletproof Vest Partnership Initiative - \$2,325.40

Councilor Pantelakos moved to approve and accept the grant to the Portsmouth Police Department, as listed. Seconded by Councilor Whitehouse and voted.

- B. Acceptance of Grant from Police Standards & Training to the Portsmouth Police Department for "Total Station" Photogrammetry Training - \$2,987.00

Councilor Smith moved to approve and accept the grant to the Portsmouth Police Department, as listed. Seconded by Councilor Pantelakos and voted.

- C. Acceptance of Donations to the Portsmouth Police Department for Accident Investigation Team upgrade to Photogrammetry Equipment
- AXL, Inc. of Greenland - \$1,000.00
 - Siegel Limited Partnership - \$1,000.00
 - Hanscom's Truck Stop - \$1,000.00

Councilor Whitehouse moved to approve and accept the donations to the Portsmouth Police Department, as listed. Seconded by Councilor Smith and voted.

- D. Acceptance of Grant from Police Standards & Training to the Portsmouth Police Department for Specialized Training - \$911.33

Councilor Hynes moved to approve and accept the grant to the Portsmouth Police Department, as listed. Seconded by Councilor Grasso and voted.

- E. Acceptance of Donation to the Portsmouth Police Explorers from Jocelyn Freschette and Gerald Howe -\$500.00

Councilor Grasso moved to approve and accept the donation to the Portsmouth Police Department, as listed. Seconded by Councilor Pantelakos and voted.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Resolution Authorizing a Bond Issue of up to Twelve Million Five Hundred Thousand Dollars (\$12,500,000.00) for the Purchase of a Fee Interest in a Portion of an Underground Parking Facility Containing not less than 325 Public Parking Spaces

Councilor Pantelakos moved to pass first reading and bring back for public hearing and adoption of the proposed Resolution, as presented, at the December 17, 2007 City Council meeting. Seconded by Councilor Whitehouse.

Councilor Grasso said that this project is by PortWalk to construct an underground parking facility and it is not part of the Westin Hotel project.

Councilor Reynolds said that was an important point made by Councilor Grasso and great clarification. He said that this project is a major development to replace the Parade Mall and it is an excellent opportunity for the City to get additional parking in the downtown. Councilor Reynolds advised the public that the City Council is considering this closely and reviewing it. He said a public hearing will be held at the next City Council meeting which will allow public input on the adoption of the Resolution.

City Manager Bohenko said a second level of parking would be built with 325 spaces that would be owned and financed by the City and open to the public. It should be noted that Portwalk already has approvals for 325 spaces of parking on one level. Total parking available if this proposal went forward would be 650 spaces (325 of these 650 spaces would be owned and paid for by Portwalk and the additional level of 325 spaces would be owned and paid for by the City of Portsmouth). The garage would be divided into two condominiums, with the City having fee simple ownership of its portion. The City's condominium unit would be comprised of its parking level and Portwalk would have ownership of its level. Portwalk would also pay the appropriate local property taxes on its portion of the condominium. The public parking spaces on the City's level would be available to the public on a 24-hour, 365-day basis.

The hourly rates on the City's level would be established by City Council as are other parking rates throughout the City. The owners of Portwalk would be able to use their 325 spaces for their monthly parkers and also operate their valet business serving the Hilton Garden Inn and the new hotel to be constructed as part of the Portwalk development. The City would manage the entire garage and when Portwalk's spaces were not occupied by monthly or valet users, they would be available to the public at City established rates and the City would retain the revenue.

It should be noted that the 325 spaces that would be gained by this additional underground level is approximately the same number that would result from building a parking garage at the Worth Lot. The original plans for the Worth Lot indicated that there would be 440 spaces; 330 of these would be net new spaces (presently there are 110 surface spaces at the Worth Lot). The opportunity to construct 325 new municipally-owned underground parking spaces relieves the immediate need to fund and construct a parking garage on the Worth Lot. This would give future City Councils the opportunity to consider the Worth Lot location for future parking needs or other re-use options.

As indicated in Mr. Levenson's letter, the EDC believes this is a one time opportunity to construct and operate underground public parking in the Central Business District. They also feel it will insure that employees and patrons of businesses contemplating downtown Portsmouth as a business location will have access to adequate and reasonably priced parking. City Manager Bohenko said this results in the same net number of parking spaces that could have been created at the Worth Lot, generates additional real estate tax revenue and results in a parking facility that will not be visible. With all of this in mind, the Economic Development Commission on November 9th unanimously voted to ask the City Council to consider this opportunity.

Councilor Dwyer spoke to the need for additional parking and the opportunity before the City Council. She said that we need to ensure that the debt service does not fully fall on the taxpayers but with parking revenues. She said that there would be a potential for substantial revenues from the garage.

City Manager Bohenko said that it is important that we are conservative with our estimates. He said if spaces were used 25% of the time it could generate \$550,000.00 at a rate of \$.75 per hour. He spoke to the desirability of underground parking versus the previous discussion of a parking facility at the Worth Lot. City Manager Bohenko said that approximately 5 years ago the Economic Development Commission brought forward the need for another garage.

Councilor Whitehouse asked City Manager Bohenko to address the \$15,000,000.00 bond that was passed related to the HarborCorp project. City Manager Bohenko said that HarborCorp is in litigation and advised the City Council that the bond has not been issued. He advised the City Council that there has always been a need for an additional parking garage in the downtown.

Assistant Mayor Ferrini thanked City Manager Bohenko and the Economic Development Commission for bringing this issue before the City Council. He spoke to the need for additional parking in the downtown and this project would save precious above land at the Worth Lot.

Motion passed.

B. Second reading of Amendments to Chapter 7 – Vehicles, Traffic Parking Omnibus Parking Ordinance (October 1, 2006 – April 30, 2007)

1. Section 7.324: LIMITED PARKING - ONE HOUR

A. No person having control or custody of any vehicle shall stop or cause the same to stop or park for longer than one hour at any time between the hours of 8:00 a.m. and 6:00 p.m., Sundays and Holidays not included, on the following streets and locations:

~~9. Public Library: All areas adjacent to and part of the public land contiguous to the Public Library. (See Map #1)~~

2. Section 7.402: AREAS ESTABLISHED, DESIGNATED, AND DESCRIBED

A. Bridge Street Off-Street Parking Area

~~1. The first five parking spaces along the Bridge Street side of the lot from Islington Street shall be designated and marked "thirty minutes parking only. (See Map #2)~~

G. Wright Avenue Off-Street Parking Area

The following area to be known as the Wright Avenue Off-Street Parking Area is hereby established for off-street parking of motor vehicles:

That piece of land bounded by State Street on the South, the Memorial Bridge Traffic Island on the East, Daniel Street on the North and the Community Center on the West.

All of said area not otherwise designated by the placement of parking meters shall be limited to parking not to exceed 4 ~~2~~ (four ~~two~~) hours at any one time.

It shall be unlawful for any person to cause or permit any vehicle registered in his name to be parked in violation of this Section and said violation may be subject to be removed by towing.

(See Map #3)

I. Old Public Library Off-Street Parking Area

All areas adjacent to and part of the public land contiguous to the old Public Library on Islington Street are hereby established for the off-street parking of motor vehicles. All of said area in the Old Public Library off-street parking area is designated as a two-hour parking meter zone. **(See Map #1)**

3. Section 7-A.402: BUS STOPS DESIGNATED

D. Hanover Street: southerly side of Hanover Street 140 feet east of Fleet Street to a point 285 feet east of Fleet Street ~~from a point located 100 feet west of Market Street to a point 54 feet westerly.~~
(See Map #4)

4. Section 7A.406: HORSE DRAWN CARRIAGES

~~A. There is hereby established an area comprised of one parking space on the westerly side of Pleasant Street adjacent to Congress Street to be marked, "Horse and Carriage Stand, 12 Noon to 12 Midnight". All vehicles parking in that location in contravention of this limitation shall be subject to towing by the City with the costs to be borne by the owner of the vehicle. **(See Map #5)**~~

5. Section 7A- 408: TAXI STANDS DESIGNATED

The following areas are hereby designated as Taxi stands:

- A. ~~High Street: easterly side, first two parking spaces from Market Square.~~ Pleasant Street: easterly side, first parallel parking space north of State Street. **(See Map #6)**
- B. Market Street:
 - 1. westerly side, second parking space from Market Square.
 - 2. easterly side, first parking space north of Bow Street, from 10:00 p.m. to 6:00 a.m. only. **(See Map #7)**
- C. Hanover Street: southerly side, first parking space west from the bus stop. **(See Map #8)**

6. Section 7.601: TRUCK LOADING/UNLOADING ZONES ESTABLISHED

Unless otherwise designated below, the following locations are established as exclusive "Truck Loading Zones" on Mondays through Saturdays between the hours of 6:00 a.m. and 7 6:00 p.m. During these times only trucks, vans and other commercial delivery vehicles engaged in loading or unloading of product, merchandise or equipment may park. Such vehicles may park at the designated locations for a period not to exceed 30 minutes. Unless otherwise determined by ordinance, at all other times these zones shall be open parking for all vehicles. **(No Map Attached)**

Councilor Whitehouse moved to pass second reading for the proposed changes to Chapter 7 of the Parking Ordinance and schedule third and final reading at the December 17, 2007 City Council meeting. Seconded by Councilor Smith.

Councilor Whitehouse spoke to individuals using the taxi stand parking spot and the need to ensure that this is listed as a tow zone when other vehicles park within the space. Parking Manager Frederick advised Councilor Whitehouse that taxi stands are designated tow zones and there is a sign indicating such at the location.

Motion passed.

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Susanne Delaney and Catherine Keenan, Portsmouth Criterium, requesting permission to hold the Portsmouth Criterium Race on Sunday, September 21, 2008 (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Pawn Nitichan and Bobby Kessler requesting permission to hold the Martin Luther King Day March of Justice on Monday, January 21, 2008 (***Anticipated action – move to refer to the City Manager with power***)

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

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

(There are no items under this section of the agenda this evening)

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

- 1. Acceptance of Wentworth School Building

City Manager Bohenko said that he is requesting acceptance of the Wentworth School Building as the School Board voted to turn the building over to the City.

Councilor Grasso moved to accept the Wentworth School Building with provisions, as outlined, effective December 31, 2007 with all terms to be worked out between the City's Legal Department, City Manager's Office, and Superintendent of Schools. Seconded by Councilor Pantelakos.

Councilor Smith requested a report back from City Manager Bohenko on the operating costs in the School Department for the Wentworth Building including what has been expended, what funds remain in their budget for this building and if the remaining funds can be transferred into the Public Works Department budget as the City is taking over ownership and maintenance.

Councilor Grasso requested that the report back include if Exchange City New England is up to date on their rent for the Wentworth School building.

Motion passed.

2. Proposed Extension of Agreement with St. John's Masonic Association for Use of their Parking Lot

City Manager Bohenko reported that the City has leased the parking since 1999 and requested the approval of the extension to the agreement with St. John's Masonic Association.

Councilor Whitehouse moved to authorize the City Manager to enter into the Agreement with St. John's Masonic Association from January 1, 2008 through December 31, 2008. Seconded by Councilor Grasso.

Councilor Whitehouse advised the City Council that he would abstain from voting on this matter, as he is a member of the Association.

Motion passed with Councilor Whitehouse abstaining from voting.

3. Approval of 2008 City Council Schedule

City Manager Bohenko said that there is a need for the establishment of an additional date for the Committee of the Whole meeting to discuss budget parameters.

Councilor Whitehouse moved to approve the 2008 City Council Schedule for Meetings and Work Sessions, as submitted with the addition of Thursday, January 10, 2008 at 7:00 p.m. for a Work Session with the Committee of the Whole regarding the establishment of budget parameters. Seconded by Councilor Dwyer and voted.

4. Request to Extend the Lease Agreement for Poco Diablo, Inc. to Expire November 1, 2008

City Manager Bohenko said that the City Council has been provided with a copy of the Lease Agreement for review and approval.

Councilor Hynes moved to extend the Poco Diablo Lease Agreement until November 1, 2008. Seconded by Councilor Smith.

Councilor Smith suggested having a status report on the Riverwalk at the January 14, 2008 City Council meeting. City Manager Bohenko said that he would like to wait to discuss the matter further with Mayor-Elect Ferrini, as there are many issues coming forwarded. Assistant Mayor Ferrini said he agrees with City Manager Bohenko and the need to review what other issues we need to discuss before establishing a date for a report back.

Councilor Pantelakos said she would like to have a work session regarding the Riverwalk sooner than later. She said that she does not want to see anything interfere with any of the businesses in the area and the City Council needs to know where we are going relative to the Riverwalk.

Motion passed.

5. Report Back Re: Request for Easement for 82-86 Congress Street

City Manager Bohenko said that this matter was referred to the Planning Board for report back and they are recommending approval of the request for the easement.

Councilor Smith moved to accept the recommendation of the Planning Board, as submitted.

Planning Board Recommendations:

- *That the Legal Department should review and approve the proposed easement as to its content and form*
- *That the City should retain the right to direct the removal of the encroachment in order to preserve the public's interest*
- *When the easement is in proper form, that the Manager shall be authorized to have it recorded at the Rockingham County Registry of Deeds*

Seconded by Councilor Dwyer and voted.

6. Polling Hours for January 8, 2008 Presidential Primary Election

City Manager Bohenko advised the City Council that City Clerk Barnaby is recommending the polling hours be set for 8:00 a.m. to 7:00 p.m. for the January 8, 2008 Presidential Primary.

Councilor Pantelakos moved to set the polling hours from 8:00 a.m. – 7:00 p.m. for the Presidential Primary Election. Seconded by Councilor Smith and voted.

Informational Items

- Safe Routes to School Grant (Not on agenda)

City Manager Bohenko announced that the Safe Routes to School Committee has received a grant in the amount of \$96,000.00 for infrastructure improvements and \$12,000.00 for non-infrastructure improvements.

Councilor Smith thanked Christina Westfall and Debbie Finnigan for their work in achieving this grant.

- Report Back Re: Fernald Court Water Access

City Attorney Sullivan said that the neighborhood may want to take over the liability associated with the dock but the City would need to administratively ensure that the insurance is in order and renewed on an annual basis. He said that it would be difficult to make such an arrangement.

Councilor Pantelakos said that it seems that the State is indicating that the dock should be removed. She asked if it became an association pier would it not be out of the jurisdiction of the City. City Attorney Sullivan said the dock was built on what may be City land and not connected with the land of the association.

Councilor Whitehouse said we heard from seven speakers this evening regarding this matter. Councilor Whitehouse requested that City Attorney Sullivan meet with the neighborhood association regarding this issue.

Councilor Dwyer said that there will be public access to the water and that is an important issue. She said it has been stated it is unclear who owns the property and asked how ownership could be determined. City Attorney Sullivan said until it is proven otherwise the City owns the paper street and owns Fernald Court, therefore only a judge could answer the question in the end. City Attorney Sullivan said by means of the paper street there is guaranteed public access to the water.

- *News Release Re: Fall Yard Waste Collection Extended to December 7, 2007*

City Manager Bohenko announced that Fall Yard Waste Collection will be extended until December 7, 2007 but that was before the snowfall today, but we will do our best to extend the date and pick up the fall yard waste.

B. MAYOR MARCHAND

1. Resignation – Henry Sanders from the Zoning Board of Adjustment

Assistant Mayor Ferrini moved to accept with regret the resignation of Henry Sanders from the Zoning Board of Adjustment. Seconded by Councilor Whitehouse and voted.

2. Appointments to be Considered:
 - James Feehley – Reappointment to the Taxi Commission
 - Peter Bresciano – Reappointment to the Taxi Commission
 - Brendan Cooney – Appointment to the Traffic & Safety Committee
 - Norman Patenaude – Appointment as an Alternate to the Planning Board
 - Thomas Grasso – Appointment as Regular member to the Zoning Board of Adjustment
 - Robin Rousseau – Appointment as an Alternate to the Zoning Board of Adjustment
 - Elena Maltese – Appointment as Regular member to the Historic District Commission
 - George Melchior – Appointment as Alternate to the Historic District Commission

The City Council considered the reappointment of James Feehley and Peter Bresciano to the Taxi Commission; appointment of Brendan Cooney to the Traffic & Safety Committee; appointment of Norman Patenaude as an Alternate to the Planning Board; appointment of Thomas Grasso as a regular member to the Zoning Board of Adjustment; appointment of Robin Rousseau as an Alternate to the Zoning Board of Adjustment; appointment of Elena Maltese as a regular member to the Historic District Commission; and appointment of George Melchior as an Alternate to the Historic District Commission. These appointments will be voted on by the City Council at the December 17, 2007 meeting.

Councilor Pantelakos expressed concern with the appointment of one of the Taxi Commission members as he would reach the ten year term limit in the middle of his next term. Councilor Whitehouse spoke to the importance of experience on the Taxi Commission. The City Council discussed the matter and agreed that if the individual has not met the ten year term limit at the time of reappointment their name could move forward for a vote.

Councilor Whitehouse expressed concern relative to the recommended appointment of the Alternate to the Planning Board and indicated he would like to discuss the matter further with Mayor Marchand.

Councilor Grasso indicated that one of the recommended appointments is for an individual that has not been a resident of the City for two years or more. She said that the City Council should require a two year minimum of residency before a person is appointed to a board or commission. Mayor Marchand indicated that the two year minimum residency is not an ordinance or a rule however; there is merit to the concern in general. He advised the City Council that the individual has previously served on the Zoning Board of Adjustment in another community and lived here in the City for 10 years previously. Mayor Marchand further added that based on the quality of the individual he felt the name should be brought forward for consideration of appointment.

Councilor Smith said he agrees with Councilor Grasso on the two year minimum requirement for living in the City before being appointed to a board or commission. Mayor Marchand said that this individual is a quality person and any comments the City Council would like to discuss relative to an individual can contact him directly.

Councilor Grasso said that she would like to see the new City Council come to a policy regarding a two year minimum requirement of residency prior to the appointment to a board or commission.

Councilor Dwyer said that the two year requirement would need to vary by board. She said that the Zoning Board of Adjustment is a quasi judicial board and a person must be able to interpret case law.

3. Appointment to be Voted:
 - Constance Carmody – Appointment to the Citizens Advisory Committee

Councilor Grasso moved to appoint Constance Carmody to the Citizens Advisory Committee. Seconded by Councilor Pantelakos and voted.

4. Reappointment of John P. Bohenko to the Pease Development Authority

Councilor Whitehouse moved to reappoint John P. Bohenko to the Pease Development Authority for a three year term to expire January 1, 2011. Seconded by Councilor Pantelakos and voted.

C. COUNCILOR DWYER

1. Request to Accept and Expend Funds from the City of Portsmouth Arts and Culture Trust

Councilor Dwyer reported that a number of citizens would like to have the City purchase an artwork entitled “Each One: The Button Project, a 9/11 Memorial” which memorializes those who died on September 11, 2001 for appropriate display as public art for a future legacy dedication. She said she would request that if sufficient funds are raised privately and contributed to the City of Portsmouth Arts and Culture Trust, that the City Council agree to purchase the work (a textile) for that purpose.

Councilor Dwyer moved to enter the agreement as proposed in Councilor Dwyer’s memorandum dated November 29, 2007. Seconded by Councilor Grasso.

City Attorney Sullivan said if the funds are not achieved the artwork would not be purchased.

Motion passed.

D. COUNCILOR SMITH

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

Councilor Whitehouse moved to approve and accept the action sheet and minutes of the November 8, 2007 Traffic & Safety Committee meeting. Seconded by Assistant Mayor Ferrini.

Councilor Smith spoke to the two items which require an ordinance change. The first change is a request for a no parking area – Islington Street between Albany and Bartlett Streets. The second change is to eliminate two sections of two hour parking currently existing on Court Street.

Councilor Dwyer spoke to the Miller/Lincoln Avenue Intersection item and asked what the implication would be of accepting the police report. Councilor Smith said that the area has been reviewed and the number of students does not meet the need for someone to stand as a cross guard. He said that further speed counts are needed and will be conducted.

Motion passed.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

At 9:30 p.m., Councilor Pantelakos moved to adjourn. Seconded and voted.

A handwritten signature in cursive script that reads "Kelli L. Barnaby".

Kelli L. Barnaby, CMC
City Clerk