

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, JUNE 16, 2008

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

At 6:00 p.m., the City Council participated in a tour of the New Discover Portsmouth Center.

I. CALL TO ORDER

Mayor Ferrini called the meeting to order at 7:00 p.m.

II. ROLL CALL

Present: Mayor Ferrini, Assistant Mayor Blalock, Councilors Novelline Clayburgh, Dwyer, Smith, Kennedy, Raynolds and Pantelakos

Absent: Councilor Spear

III. INVOCATION

Mayor Ferrini asked everyone to join in a moment of silent prayer in memory of Dover City Councilor Bob Keays who recently passed away.

IV. PLEDGE OF ALLEGIANCE

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

MAYOR'S AWARD

1. Portsmouth High School Girls Lacrosse Team – Division III State Champions

Mayor Ferrini presented Mayor's Awards and gifts to the Portsmouth High School Lacrosse Team coaches and players in recognition of winning the Division III State Championship.

Mayor Ferrini announced that Moody's Investors Service, has upgraded the City's bond rating from Aa3 to Aa2, citing strong financial management, and continuing growth, a large tax base and low debt as positive factors. Mayor Ferrini thanked City Manager Bohenko, Finance Director Belanger and her staff for this accomplishment.

PRESENTATION

1. Quarterly Wastewater Master Plan Update – David Allen, Deputy Public Works Director

Deputy Public Works Director Allen and Peter Goodwin from Weston and Sampson provided a quarterly review of the Wastewater Master Plan. Deputy Public Works Director Allen indicated that this is the 2nd of the quarterly updates and they continue to gather information.

He said that the Master Planning effort will ensure the selected treatment plant and collection system CSO LTCP alternatives are:

- Sustainable
- Cost Effective
- Environmentally Sound
- Fulfills Regulatory Requirements
- Fulfills Funding Requirements

Peter Goodwin, Weston and Sampson addressed the Scope of Work outlining items that have been completed, on-going and future as follows:

Completed

1. Define Study Parameters
2. Regulatory Requirements Review
3. Flow and Load Forecasting

On-going

4. Collection System Evaluation
5. Alternatives Evaluation

Future

6. Develop Funding Strategies
7. Develop Implementation Schedule
8. Prepare the WMP Document
9. Update Wastewater Treatment Facilities Plan
10. Update CSO LTCP

On-going

11. Develop Public / Regulatory Participation Program
12. Project Management
13. Supplemental Work Plan-Interim Measures

Mr. Goodwin reported in the fall they will prepare a technical memorandum for review of the City Council and approval of interim measures. He informed the City Council that the City of Portsmouth has the highest ratio of employees working in the community versus residents living here. He discussed the future design flow is estimated to be 11.0 MGD by Year 2030. He further reviewed alternatives assessment and advised the City Council that there will be a workshop on July 17, 2008 to evaluate local and regional alternatives regarding biosolids handling options.

In conclusion, Mr. Goodwin outlined ongoing tasks as follows:

- Complete Interim Measures Evaluation
- Continue Tasks 4 – Collection System Evaluation
- Continue Task 5 – Alternatives Assessment
- Continue Quarterly Updates to City Council
- Conduct Public “Wastewater 202” Presentation Fall 2008

City Manager Bohenko advised the City Council that we are in the stages of trying to assess if the plant will be removed off the island and no decision has been made relative to this matter at this time. Deputy Public Works Director Allen said there is a great deal of information to review to make a decision.

Councilor Kennedy spoke to the blockage of the back channel in the south end and asked that be considered during the decision making process.

V. ACCEPTANCE OF MINUTES – JUNE 2, 2008

Councilor Smith moved to approve and accept the minutes of the June 2, 2008 City Council meeting. Seconded by Councilor Pantelakos and voted.

VI. PUBLIC COMMENT SESSION

Hugh Jencks, Chair of Peirce Island Committee, spoke relative to a request before the City Council this evening recommending the adoption of a “carry-in, carry-out” policy with regard to refuse on Peirce Island. He said that the Committee recommendation that public notice and signage announcing the changes should be prominently displayed, in conjunction with posted warnings of the statutory fines for littering. Mr. Jencks advised the City Council that by instituting this policy the Public Works Department could then suspend the three-times-a-week trash collection operations that it conducts in the Park.

In addition, Mr. Jencks spoke to the recommendation of the consolidations of boards and commissions. He advised the City Council that the various boards and commissions represent a variety of interests with a strong involvement of volunteerism. He said he is concerned that this will have a negative impact on those individuals that wish to volunteer their time and knowledge to serve the City.

VII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 1 BY THE CREATION OF AN ARTICLE XVIII ENTITLED PAYMENT BY CREDIT CARD PURSUANT RSA 80:52-c

Mayor Ferrini read the legal notice, declared the public hearing open and called for speakers. After three calls and no speakers, Mayor Ferrini declared the public hearing closed.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to the New Library Building Fund
- Robert A. Shaines - \$5,000.00 (*Fulfills Pledge*)

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

- B. Acceptance of Donation to the Coalition Legal Fund
- Town of New London - \$1,000.00

Councilor Novelline Clayburgh moved to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund. Seconded by Councilor Dwyer and voted.

- C. Acceptance of Police Department Donation
- Portsmouth Police Explorer Cadets in the amount of \$6,500.00 from the CrimeStoppers organization

Councilor Novelline Clayburgh moved to approve and accept the donation to the Portsmouth Police Department, as listed. Seconded by Councilor Kennedy and voted.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second reading of Ordinance amending Chapter 1 by the creation of an Article XVIII entitled Payment by Credit Card Pursuant RSA 80:52-c

Councilor Smith moved to pass second reading and hold a third and final reading at the July 21, 2008 City Council meeting on the proposed ordinance that would authorize these credit card payments in accordance with state law. Seconded by Councilor Novelline Clayburgh and voted.

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Donations to Art-Speak for Overnight Art Event
- Donalee Brothers - \$10.00
 - Meganne & Alfonso Fabrega - \$10.00
 - Geraldine Eastler - \$25.00
 - Jennifer Meister - \$25.00
 - GF Wool & MS Sillari - \$25.00

- Lawrence Yerdon - \$25.00
- Michael Frandzel & Judith Silver - \$50.00
- Jeanne Porter - \$50.00
- Stuart Wisong & Richard Hadlock - \$50.00
- Adams & Roy, Inc. - \$500.00

(Anticipated action – move to approve and accept the donations to Art-Speak for the Overnight Art Event, as listed)

- B. Renewal of Sidewalk Obstruction License with no changes from last year
- RiverRun Bookstore – 1 Table & 1 A-frame sign

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

- C. Request from Keith Prince, Rudi's Portsmouth, requesting permission for a Sidewalk Obstruction License to place 1 A-frame sign in front of establishment
- (Anticipated action – move to refer to the City Manager with power)***

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

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Jay McSharry, Jumpin' Jay's Fish Café, requesting a license agreement for the dumpster, recycle totes and recycled bio-fuel oil receptacle that are located on Porter Street and shared by Jumpin' Jay's, Radici and The Offices at One Middle Street

Councilor Novelline Clayburgh moved to refer to the City Manager for report back. Seconded by Councilor Smith.

City Manager Bohenko informed the City Council that the City became aware of the dumpster, recycle totes and recycled bio-fuel oil receptacle located on Porter Street and advised Mr. McSharry that a license agreement would need to be approved for them to remain. He advised the City Council that the size of the dumpster and other items will be reviewed by staff and he will provide a report back.

Motion passed.

- B. Letter from Majors Chester & Joy Emmons, The Salvation Army, requesting a license agreement for a dumpster located on Porter Street

Councilor Smith moved to refer to the City Manager for report back. Seconded by Councilor Kennedy and voted.

- C. Letter from Kimberly Jodoin, Moving Mountains, requesting permission to hold a three mile bike loop in the center of Pease on Sunday, August 17, 2008 from 9:00 a.m. – 1:00 p.m.

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

Councilor Kennedy said she would like to thank the organization for considering the Pease Tradeport for this event.

Motion passed.

- D. Letter from Mike Novak, requesting permission to conduct a live acoustic performance and benefit for the NH Surfrider Foundation in the Vaughan Mall on Saturday, July 19, 2008 at 6:00 p.m. (Not on agenda)

Mayor Ferrini requested that the City Council consider taking action on this matter as the event will be held prior to the next meeting of the Council.

Councilor Smith moved to refer to the City Manager with power. Seconded by Councilor Pantelakos and voted.

Councilor Dwyer suggested that a notation be made on the City website indicating the deadline for the submittal of materials to appear on City Council agenda's. City Manager Bohenko advised the City Council that a notation will be made on the website relative to the deadline for agenda materials.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

- 1. NH Department of Transportation Request for License Re: Memorial Bridge Parking and Emergency Generator

City Manager Bohenko advised the City Council that Mr. Landry, Project Manager for the New Hampshire Department of Transportation (NHDOT) is here this evening to answer any questions the City Council may have relative to the rehabilitation of the Memorial Bridge project. He informed the City Council that the DOT is requesting permission to locate an emergency generator under the bridge on City property. In addition, they're also requesting that the bridge operators continue to be able to park on City-owned land under the bridge. He indicated that he would recommend that the City Council authorize him to enter into the appropriate license agreement to allow the NHDOT to place an emergency generator in an area that would not interfere with the future Riverwalk project and further, to allow employee parking on City property under the bridge.

Councilor Kennedy expressed concern regarding the placement of the emergency generator so close to the waterfront and asked if there are any other licenses required for the placement of this generator. Mr. Landry informed the City Council that a fence will be installed around the generator and he is not aware of any additional permits required. Public Works Director Parkinson advised the City Council the generator will be a self contained unit.

Councilor Smith inquired about the testing schedule and the possible affect it may have on nearby residents. Mr. Landry said that the DOT will work with the neighborhood and testing will be conducted every 2 weeks. City Manager Bohenko advised the City Council that the license will include that testing will be conducted during the day.

Councilor Pantelakos moved to authorize the City Manager to execute the appropriate license agreements with the NHDOT for an emergency generator and employee parking for the Memorial Bridge project. Seconded by Councilor Smith and voted.

2. Request from Peirce Island Committee Re: "Carry-in, Carry-out" Refuse Policy

City Manager Bohenko said a letter has been provided to the City Council from Hugh Jencks, Chairman of the Peirce Island Committee, regarding their recommendation that the City adopt a "Carry-in, Carry-out" Refuse Policy with regard to refuse on the island and that all trash receptacles be removed. He said that the City staff believes it is worth attempting a pilot program to see if this policy would work. One caveat is that we would like to keep trash receptacles on the inside perimeter of the outdoor pool given the volume of use that it receives during the day.

Councilor Smith moved to conduct a pilot program for a "Carry-in, Carry-out" Refuse Policy at Peirce Island with the exception of the outdoor pool. Seconded by Councilor Kennedy.

Councilor Dwyer said the point made by City Manager Bohenko regarding the need for trash receptacles on the inside perimeter of the outdoor pool is important.

Councilor Reynolds asked if signage would be installed to alert the public to this policy. City Manager Bohenko said there will be signage and public out reach to educate users of the facility.

Motion passed.

3. Proposed Date Re: Boards and Commissions Annual Recognition Night

City Manger Bohenko advised the City Council that City Clerk Barnaby has reviewed the City Council's Meeting Schedule for 2008 and is proposing the second Thursday, November 13, 2008 for the Boards and Commissions Annual Recognition Night.

A number of City Councilors indicated that they had previous commitments and requested that another date be considered. City Manager Bohenko advised the City Council that he will report back at the next Council meeting with a date in December for the Annual Board and Commissions Recognition Night.

4. Request for License Agreement Re: Music Hall

City Manager Bohenko reported that the Music Hall is seeking a license agreement to facilitate the completion of renovation activities. He advised the City Council that the renovations are due to be completed in September 2008 and the current agreement with the City has expired. He indicated that the draft License Agreement makes it clear that Porter Street and Chestnut Street are to remain open under this agreement. There may be a need for the occasional temporary closure, a couple of hours for example when cement is poured. As spelled out in the draft License Agreement, any closure must have the prior approval of the Department of Public Works and will require a police detail and notification to the Fire Department. City Manager Bohenko also informed the City Council that the draft License Agreement has been reviewed by the Legal Department, the Public Works Department, and a representative of the Music Hall.

Councilor Novelline Clayburgh moved to authorize the City Manager to enter into a License Agreement with the Music Hall for purposes of facilitating construction activities at 28 Chestnut Street. Seconded by Councilor Pantelakos.

Councilor Smith reported that the Traffic & Safety and Parking Committees have concerns relative to resident's of the condo's need to change the traffic pattern to reach their parking areas.

Motion passed.

5. Request for License Agreement Re: 40 Congress Street

City Manager Bohenko reported that the City Council previously approved a License Agreement for William Greenier Building Contractor LLC to facilitate renovation activities at 40 Congress Street. The License Agreement allowed the use of two parking spaces, Monday through Friday only, in front of 40 Congress Street to facilitate construction. He informed the City Council that the License Agreement is set to expire on June 13, 2008 and Mr. Greenier informed the Legal Department on June 9, 2008 that he would like an extension of the License Agreement to July 11, 2008. The Licensee will defer from use of the licensed spaces on July 4th and that the City will continue to be compensated \$40 per day for the loss of the two spaces.

Councilor Novelline Clayburgh moved to authorize the City Manager to negotiate and enter into an extension of the existing License Agreement with Greenier Building Contractor LLC for purposes of facilitating construction activities at 40 Congress Street. Seconded by Councilor Dwyer.

Councilor Kennedy asked if Mr. Greenier could defer from use of the licensed spaces on July 3rd and July 4th due to the fireworks.

Motion passed.

6. Postponed Action Re: Conservation Commission Report Back on Establishing an Open Space Committee (*Postponed from the June 2, 2008 City Council meeting*)

City Manager Bohenko advised the City Council that the Conservation Commission discussed the above reference issue at their May 14th meeting and provided a report back for the June 2nd City Council meeting, which included the recommendation to establish a subcommittee of the Conservation Commission focused on developing an inventory and assessment of the City's open spaces and updating the City's 1972 Open Space Plan. That subcommittee, as proposed, would have included representatives from a number of other City committees.

He said it should be noted that the powers and authorities of Conservation Commissions under NH RSA 36-A include the following:

- "It shall keep an index of all open space and natural, aesthetic or ecological areas within the city or town, as the case may be, with the plan of obtaining information pertinent to proper utilization of such areas, including lands owned by the state or lands owned by a town or city.
- It shall keep an index of all marshlands, swamps and all other wetlands in a like manner, and may recommend to the city council or selectmen or to the department of resources and economic development a program for the protection, development or better utilization of all such areas."

On a somewhat parallel track with the Conservation Commission's June 2nd report back to the Council, the City's Ad Hoc Restructuring Committee recommended to the City Council on May 19th that a new Recreation, Parks and Open Space Committee be created that would assume the functions of the existing Recreation, Peirce Island, Cemetery and Dog Committees and the Council voted to instruct the City Attorney to draft an ordinance that would accomplish this.

Councilor Smith moved that the Conservation Commission as a whole, or acting through a subcommittee comprised of its own members, conduct an open space inventory with a focus on land that has conservation value (for example, wildlife habitat, rare/endangered species, farmland) and/or passive recreation value (for example, walking trails rather than active recreation such as playing fields) and contract with a natural resource protection specialist, such as a wildlife biologist, to accomplish this work. Seconded by Councilor Dwyer.

Councilor Kennedy spoke to the need to use the expertise of individuals as part of the process. City Manager Bohenko advised the City Council that the Conservation Commission will invite people into the process.

Motion passed.

7. Report Back Re: Consolidation of Committee

City Manager Bohenko spoke to the May 19, 2008 vote of the Council, "to instruct the City Attorney to draft an ordinance to create a new Recreation, Parks and Open Space Committee that would assume the functions of the existing Recreation, Peirce Island, Cemetery and Dog Committees." He spoke to the memorandum and proposed ordinance from City Attorney Sullivan that responds to the City Council's request. City Manager Bohenko also informed the City Council that City Attorney Sullivan's memorandum will serve as the report back on this matter and said the City Council has the following two options to proceed as it relates to this matter:

- 1) *To bring back to your July 21st meeting for a first reading, or*
- 2) *To conduct a work session on this matter at the July 21st meeting prior to the regular City Council meeting.*

City Attorney Sullivan said the ordinance creates a new public body within City government modeled on the Peirce Island Committee, containing, however, the authority to assume the functions of Recreation, Cemetery and Dog committees as well. The ordinance, therefore, deletes any reference from the ordinance book to the existing Recreation or Peirce Island committees. Since the Cemetery and Dog committees are not created by ordinance, they would simply cease to exist on the adoption of the ordinance provided in your packet.

Councilor Smith moved to conduct a work session on this matter at the July 21, 2008 meeting prior to the regular City Council meeting. Seconded by Councilor Novelline Clayburgh.

Councilor Kennedy said the original thought was staff was being burden attending and taking minutes of these meetings and feels that question has not been answered to this point. City Manager Bohenko indicated that there are times when City staff involvement is necessary. He said if a subcommittee is established it will require the involvement and support of City staff. He also indicated that this and other items could be discussed more at the work session.

Councilor Kennedy said she does not understand why we are at the point of eliminating committees. She said she would like to know the reason for the proposed elimination of committees.

Councilor Dwyer said that there is a need to restructure some committees to streamline processes in providing information and reports to the City Council. She indicated that there may be a need for City staff involvement but there is not enough staff to go around.

Councilor Smith said there is a great deal of staff time spent in serving committees. He said in no way is this proposal of restructuring to eliminate individuals from serving. He reported that the Blue Ribbon Committees are advisory in nature.

Mayor Ferrini said he would make sure that there is participation from all committee members. Councilor Kennedy suggested moving the work session to September due to the difficulty people have in attending meetings during the summer. She said that we need data on staff involvement and time spent in serving committees.

City Manager Bohenko said if a work session is held in July public hearing on the ordinance may not take place until September.

Mayor Ferrini said he is concerned that 1 hour would not be sufficient for the work session. City Manager Bohenko said the work session could go from 6:00 p.m. – 7:30 p.m.

Councilor Dwyer said committee members have been thoughtful and not everyone is against the suggestion to restructure committees.

Assistant Mayor Blalock said there may be a need for multiple work sessions on this matter.

Motion passed.

City Manager Bohenko reminded the City Council of the Joint Work Session with the School Board on Monday, June 23, 2008 regarding Middle School Design Concepts.

B. MAYOR FERRINI

1. Appointment to be Considered:
 - Christine Woodman Casa to the Safe Routes to School Committee as the Dondero School Representative

The City Council considered the appointment of Christine Woodman Casa to the Safe Routes to School Committee as the Dondero School Representative. This appointment will be voted on by the City Council at the July 21, 2008 meeting.

2. Appointment to be Voted:
 - Charles Oxford, Jr. – Appointment to Portsmouth Housing Authority

Councilor Pantelakos moved to appoint Charles Oxford, Jr. to the Portsmouth Housing Authority until April 1, 2010, filling the unexpired term of Albert Charest. Seconded by Councilor Novelline Clayburgh and voted.

3. *Replacement Appointment of Economic Development Commission Representative to Housing Blue Ribbon Committee – William Gladhill

Mayor Ferrini announced that he has appointed William Gladhill as the Economic Development Commission Representative to the Housing Blue Ribbon Committee. Mr. Gladhill is replacing Everett Eaton.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

At 8:30 p.m., Councilor Pantelakos moved to adjourn. Seconded by Councilor Novelline Clayburgh and voted.

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

Kelli L. Barnaby, CMC/CNHMC
City Clerk