

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: TUESDAY, FEBRUARY 16, 2010

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

I. CALL TO ORDER [7:00PM or thereafter]

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

II. ROLL CALL

Present: Mayor Ferrini, Assistant Mayor Novelline Clayburgh, Councilors Lister, Hejtmanek, Spear, Dwyer, Coviello, Smith and Kennedy

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

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

PRESENTATION

1. Police Chief David Ferland – Police Goals and Objectives Comprehensive Strategic Plan for 2010-2015

Chief Ferland provided a PowerPoint Presentation outlining the Police Goals and Objectives Strategic Plan for 2010-2015. The new Mission Statement of the Police Department is as follows: ***“The Portsmouth Police Department actively works in partnership with our community to protect, prevent crime and respectfully, justly and compassionately help all people.”***

Chief Ferland said the goal is to provide outstanding service through a highly trained police force. The department feels excellence is achieved through training, which leads to leadership, empowerment and excellence.

He spoke to the Versus 911 Alert System to allow for emergency communications. He also addressed the Police Citizens Academy which will be starting shortly. Councilor Smith challenged at least 2 City Councilors to take part in the Academy this session.

V. ACCEPTANCE OF MINUTES – FEBRUARY 1, 2010

Councilor Coviello moved to approve and accept the minutes of the February 1, 2010 City Council meeting. Seconded by Assistant Mayor Novelline Clayburgh and voted.

VI. PUBLIC COMMENT SESSION

Richard Gamester, Fire Commissioner, asked the City Council to reconsider the vote for the percent for the arts for the Fire Station 2 project. He said in these economic times we should forego creating another art piece for the project when there is a statute at the current station that should be relocated to the new station.

Heather Hurtt spoke opposed to the City closing the indoor pool. She spoke to the importance of aquatic sports. Ms. Hurtt announced that at 6:30 p.m. at the High School there will be a review of the recreational needs study and urged the City Council to attend.

Erik Anderson suggested that the City Council come up with more than one plan for the City's budget. He said there is more than one solution for the problems.

VII. PUBLIC HEARINGS

- A. RESOLUTION INCREASING THE MAXIMUM INCOME LIMIT FOR INDIVIDUALS QUALIFYING FOR THE ELDERLY REAL ESTATE TAX EXEMPTION TO \$33,182.00 FOR SINGLE AND \$40,933.00 FOR MARRIED AND TOTAL ASSETS MAY NOT EXCEED \$110,611.00 WHETHER SINGLE OR MARRIED

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

- B. RESOLUTION INCREASING THE MAXIMUM INCOME LIMIT FOR INDIVIDUALS QUALIFYING FOR THE DISABLED REAL ESTATE TAX EXEMPTION TO \$33,182.00 FOR SINGLE AND \$40,933.00 FOR MARRIED AND TOTAL ASSETS MAY NOT EXCEED \$110,611.00 WHETHER SINGLE OR MARRIED

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

- C. RESOLUTION AUTHORIZING A BOND ISSUE OF UP TO ONE MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$1,800,000.00) FOR FY10 CITYWIDE FACILITIES, STREETS, SIDEWALKS AND BRIDGE IMPROVEMENTS

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

- D. RESOLUTION AUTHORIZING A BOND ISSUE OF UP TO FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) FOR FY10 SCHOOL FACILITIES IMPROVEMENTS

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

Erik Anderson asked if the bonding is discretionary spending or part of the previous CIP. City Manager Bohenko said this bond is from last years' CIP. He further advised Mr. Anderson that all bonding items must come before the public for a public hearing. These funds will be used to replace the bleachers at the High School and the roof on Dondero School. Mr. Anderson said he would like the City Council to revisit some bonding items which were approved through last years' CIP and perhaps the funds should be re-appropriated to a more needed project.

After no further speakers, Mayor Ferrini declared the public hearing closed.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donations to the Coalition Legal Fund
- Town of Freedom- \$1,000.00
 - Town of Waterville Valley - \$1,000.00

Councilor Smith moved to approve and accept the donations, as listed, to be placed in the Coalition Legal Fund. Seconded by Councilor Kennedy and voted.

- B. Acceptance of Funds from Art-Speak Annual Appeal – Unrestricted funds from Art-Speak's Annual Appeal
- Dewitt & Nancy Carmer - \$50.00
 - Tom & Annabelle Cocchiaro - \$100.00

Councilor Kennedy moved to accept and approve the donations, as listed. Seconded by Councilor Lister and voted.

- C. NH Arts Satellite Network "pass-through" funds:
- State of New Hampshire - \$10,000.00

Assistant Mayor Novelline Clayburgh moved to accept and approve and grant, as submitted. Seconded by Councilor Kennedy.

- D. Acceptance of Art-Speak Overnight Art Sponsorship
- Bid2Win Software, Inc. - \$5,000.00
 - George Friese - \$750.00
 - Bosen & Springer, PLLC - \$500.00
 - Artstream LLC - \$100.00
 - Susan J. Conway - \$100.00

Councilor Smith moved to accept and approve the donations to Art-Speak for Overnight Art, as presented. Seconded by Councilor Dwyer and voted.

- E. Acceptance of Grant for Art-Speak from New Hampshire State Council on the Arts
- New Hampshire State Council on the Arts - \$6,900.00

Councilor Smith moved to accept and approve the grant to Art-Speak from the New Hampshire State Council on the Arts, as presented. Seconded by Councilor Kennedy and voted.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Adoption of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Elderly Real Estate Tax Exemption to \$33,182.00 for single and \$40,933.00 for married and total assets may not exceed \$110,611.00 whether single or married

Assistant Mayor Novelline Clayburgh voted to adopt the Resolution for Elderly Exemptions, as submitted. Seconded by Councilor Kennedy and voted.

- B. Adoption of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Disabled Real Estate Tax Exemption to \$33,182.00 for single and \$40,933.00 for married and total assets may not exceed \$110,611.00 whether single or married

Councilor Kennedy moved to adopt the Resolution for Disabled Exemptions, as submitted. Seconded by Councilor Dwyer and voted.

- C. Adoption of Resolution Authorizing a Bond Issue of up to One Million Eight Hundred Thousand Dollars (\$1,800,000.00) for FY10 Citywide Facilities, Streets, Sidewalks and Bridge Improvements

Councilor Smith moved to adopt the proposed Bond Resolution for Citywide Improvements in the amount up to \$1,800,000.00 as submitted. Seconded by Councilor Dwyer. On a unanimous roll call 8-0 motion passed. Councilor Coviello briefly stepped out of the meeting.

- D. Adoption of Resolution Authorizing a Bond Issue of up to Five Hundred Thousand Dollars (\$500,000.00) for FY10 School Facilities Improvements

Councilor Lister moved to adopt the proposed Bond Resolution for School Facilities Improvements in the amount of \$500,000.00 as submitted. Seconded by Assistant Mayor Novelline Clayburgh.

Councilor Kennedy asked if the bleachers needed to be replaced at this time. Public Works Director Parkinson said that there are safety issues associated with the current bleachers.

On a unanimous roll call vote 8-0, motion passed. Councilor Coviello briefly stepped out of the meeting.

- E.1. Third and final reading of Ordinance amending Chapter 7 – Vehicles, Traffic Parking Omnibus Ordinances (*First Ordinance*)

Councilor Smith moved to pass third and final reading of the proposed Ordinance amending Chapter 7 – Vehicles, Traffic Parking Omnibus Ordinances, as submitted. Seconded by Assistant Mayor Novelline Clayburgh and voted.

- E.2. Third and final reading of Ordinance amending Chapter 7 – Vehicles, Traffic Parking Omnibus Ordinances (*Second Ordinance*)

Councilor Smith moved to pass third and final reading of the proposed Ordinance amending Chapter 7 – Vehicles, Traffic Parking Omnibus Ordinances, as submitted. Seconded by Councilor Lister and voted.

- F. Third and final reading of Ordinance amending Chapter 6, Article XIII, Section 6.1307 – Prohibited Conduct – Vendor from Motor Vehicle

Councilor Smith moved to pass third and final reading of the proposed ordinance amendments to Chapter 6, Article XIII, as submitted. Seconded by Councilor Coviello and voted.

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Doug Bates, Joan Chawziuk, Greater Portsmouth Chamber of Commerce, requesting permission to hang Portsmouth Harbour Trail flags at 24 key sites for the 2010 season (***Anticipated action – move to refer to the City Manager with power***)

Councilor Smith moved to adopt the Consent Agenda. Seconded by Councilor Coviello and voted.

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

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

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Approval of Easement for Lafayette Road Fire Station

City Manager Bohenko informed the City Council that this is an easement for Fire Station 2 from PSNH for the installation of underground service to the new station.

Councilor Smith moved to authorize the City Manager to execute the easement for the Lafayette Road Fire Station. Seconded by Councilor Coviello and voted.

2. Request to Renew Lease Agreement for Sons of Italy

City Manager Bohenko said that this would renew the lease agreement for the Sons of Italy for one year.

Assistant Mayor Novelline Clayburgh moved to extend the Lease Agreement with the Sons of Italy at One Plains Avenue, for a period of April 1, 2010 through March 31, 2011. Seconded by Councilor Coviello and voted.

3. Request to Renew Seacoast Growers' Association (Farmers' Market) Proposed 2010 License Agreement

City Manager Bohenko said this is a renewal request from the Seacoast Growers' Association for the Farmers' Market 2010 season. He announced that as part of the agreement there is a new paragraph added for zero waste for sustainability.

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

Councilor Kennedy asked if there is any thought to look at a market during the winter months. City Manager Bohenko said we could discuss that issue with Seacoast Growers' Association.

Motion passed.

4. Request for a License Agreement from Fast Eddie's Dirty Laundry for property located at 123 Market Street to install a projecting sign

Planning Director Taintor spoke to the request for a projecting sign and the recommendations as outlined by the Planning Board.

Councilor Smith moved to accept the Planning Board's recommendation with the aforementioned stipulations and approve the request of Ed Saunders, Portsmouth-Seacoast Retail Group, LLC, owner of Fast Eddie's Dirty Laundry to install a projecting sign at 123 Market Street and further authorize the City Manager to execute a License Agreement for this request. Seconded by Assistant Mayor Novelline Clayburgh and voted.

Planning Board Stipulations:

- *The License shall be approved by the Legal Department as to content and form;*
- *Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and*
- *Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works*

5. Request for a License Agreement from Ellie's Oxygen Lounge and Raw Juice Bar for property located at 146 Fleet Street to install a projecting sign

Councilor Smith moved to accept the Planning Board's recommendation with the aforementioned stipulations and approve the request of Evon Cooper, owner of Ellie's Oxygen Lounge and Raw Juice Bar to install a projecting sign at 146 Fleet Street and further authorize the City Manager to execute a License Agreement for this request. Seconded by Councilor Coviello and voted.

Planning Board Stipulations:

- *The License shall be approved by the Legal Department as to content and form;*
- *Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and*
- *Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works*

6. Request for a License Agreement from Odyssey and Oracle for property located at 82 Fleet Street to install a projecting sign

Councilor Smith moved to accept the Planning Board's recommendation with the aforementioned stipulations and approve the request of Josh Johnson, owner of Odyssey and Oracle to install a projecting sign at 82 Fleet Street and further authorize the City Manager to execute a License Agreement for this request. Seconded by Councilor Coviello and voted.

Planning Board Stipulations:

- *The License shall be approved by the Legal Department as to content and form;*
- *Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and*
- *Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works*

7. Request for two License Agreements from The Page Restaurant for property located at 172 Hanover Street to install a projecting sign and a "temporary" freestanding sign

Planning Director Taintor reported that this request has been before the City Council in the past and the Planning Board did not recommend approval. He informed the City Council that the outstanding issues with the building owner have been resolved. Planning Director Taintor advised the City Council that due to the building being in the Historic District there is an additional stipulation that the sign design shall be referred to the HDC for approval.

Councilor Smith moved to accept the Planning Board's recommendation with the aforementioned stipulations and approve the request of Ted Mountzuris and John Dussi for the Page Restaurant to install a projecting sign and to place a removable monument sign, underground conduit, lighting fixtures, and surrounding curbing and landscaping on municipal property in Vaughan Mall at 172 Hanover Street and further authorize the City Manager to execute two License Agreements for this request. Seconded by Councilor Coviello.

Planning Board Stipulations: - Projecting Sign

- *The license shall be approved by the Legal Department as to content and form;*
- *The sign design shall be referred to the HDC for approval*
- *Any removal or relocation of the projecting sign, for any reason, will be done at no cost to the City; and*
- *Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works*

Planning Board Stipulations: - Removable Monument Sign

- *The license shall be approve by the Legal Department as to content and form;*
- *The sign design shall be referred to the HDC for approval*
- *Any removal or relocation of the sign, conduit, lighting fixtures, curbing or landscaping, for any reason, will be done at no cost to the City; and*
- *At the termination of the license, any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the sign, conduit, lighting fixtures, curbing or landscaping, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.*

Councilor Dwyer questioned the monument sign and the material that it is made of. City Attorney Sullivan reported that the material is light fabric. Councilor Coviello asked if this was in the spirit of the Historic District Commission in terms of signs. Planning Director Taintor said this will be looked at with HDC to make sure that it meets the requirements.

Councilor Smith questioned why it needs to go before the HDC. Planning Director Taintor said the sign stands out and felt it was prudent that the sign request go to the HDC for review. Councilor Smith said he has an issue with the stipulation to refer to the HDC and feels it is more regulations on small businesses.

Councilor Smith moved to amend by the removal of stipulation 2 from the Projection Sign and Removal of Monument Sign stipulations that *"the sign design shall be referred to the HDC for approval"*. Seconded by Councilor Dwyer.

Councilor Kennedy asked if we have done this before. Planning Director Taintor said we have only been doing this formal process since last year.

Councilor Spear said he feels the signs were different enough to warrant a second look by HDC. The sign does not meet the character of the neighborhood.

Councilor Kennedy feels that the sign is much like other signs in the downtown area.

Councilor Dwyer said someone has to explain what design distinction there is between the other signs that have been previously approved. Planning Director Taintor said the difference is between the types of brackets used for hanging the sign.

On a roll call 4-5 motion to amend by the removal of stipulation 2 from the Projection Sign and Removal of Monument Sign stipulations that *"the sign design shall be referred to the HDC for approval"* **failed** to pass. Assistant Mayor Novelline Clayburgh, Councilors Lister, Dwyer and Smith voted in favor. Councilors Hejtmanek, Spear, Coviello, Kennedy and Mayor Ferrini voted opposed.

On a unanimous roll call 9-0, main motion passed.

8. Report Back Re: Donation of land from Griffin Family Corporation

City Manager Bohenko said that the Planning Board is recommending accepting the donation of land.

Councilor Dwyer moved to accept the Planning Board's recommendation to accept the donation of the land. Seconded by Councilor Kennedy and voted.

B. MAYOR FERRINI

1. Resignation – William Gladhill – Economic Development Commission

Councilor Smith moved to accept with regret the resignation of William Gladhill from the Economic Development Commission. Seconded by Assistant Mayor Novelline Clayburgh and voted.

Councilor Smith requested that a letter be sent to William Gladhill with thanks for his years of service with the Economic Development Commission.

2. Appointments to be Considered:

- Lyz Boudreaux – Peirce Island Committee – Initial
- Linda King – Peirce Island Committee – Initial
- James Russ – Peirce Island Committee – Initial
- John Simon – Peirce Island Committee – Initial
- Arlene Corriveau – Peirce Island Committee – Reappointment
- Harold Hapgood – Peirce Island Committee – Reappointment
- Steven Marison – Peirce Island Committee – Reappointment
- Robert Pollard – Peirce Island Committee – Reappointment
- Richard Smith – Peirce Island Committee – Reappointment
- Harold Whitehouse – Peirce Island Committee – Reappointment
- Anthony Blenkinsop – Planning Board – Reappointment

- MaryLiz Geffert – Planning Board - Reappointment
- William Gladhill – Planning Board Alternate - Initial
- Paige Roberts – Planning Board – Reappointment
- Peter Bresciano – Taxi Commission – Reappointment
- Frank Daggett – Taxi Commission – Reappointment
- James Feehley – Taxi Commission – Reappointment
- Joel Look – Taxi Commission – Reappointment
- John Connors – Traffic & Safety Committee – Reappointment
- Ronald Cypher – Traffic & Safety Committee – Reappointment
- Frederick (Ted) Gray – Traffic & Safety Committee – Reappointment
- Brad Lown – Trustees of the Trust Fund – Reappointment

The City Council considered the above referenced appointments to be voted at the March 1, 2009 City Council meeting.

3. Recommended Blue Ribbon Committee on Operational Efficiencies

Mayor Ferrini said a number of City Councilors have made inquiries on combining city services. He said he would like to appoint a Blue Ribbon Committee of the City Council and School Board to look into the combination of services between the City and the School Department. He announced that there will be three City Council members and three School Board members.

City Manager Bohenko said these changes would be aimed for the 2012 budget because of contract issues. Mayor Ferrini said that we are looking at a two year cycle.

C. COUNCILOR SPEAR

1. City Council Referral on Downtown Events

Councilor Spear reviewed his report dated February 5, 2010. He outlined the findings as follows:

Community Support for Event

There is broad community support for holding events in the downtown as indicated in the 79 public comments received (75 online and 4 at public input meeting). The comments overwhelmingly encouraged continuation of events in the downtown. Of the comments received, 73 responses were in favor of events, 3 were opposed to the number of events held downtown and 3 were neutral. Comments not in support of events focused on congestion and inconvenience created by events.

Administrative Process for Events Management

A) Currently the administrative process for managing events is triggered by any inquiry from event organizers. The City Manager convenes select representatives from city departments to discuss municipal support of the event. This representation varies depending on the specific event, its location, the anticipated influx of people and type of event management required such as traffic control, parking considerations and special parking garage rates, and fire, ambulance or health department support/oversight. Following certain events, debriefings are held to analyze management and make necessary changes.

B) In 2008 and 2009 respectively, there were 68 city approved events that required some form of municipal coordination.

C) The Committee found that the current administrative process for managing events is working well.

Recommendations

A) Continue to use the administrative procedure in place for managing events.

B) Improve public awareness of the event procedures through use of the city's website and electronic newsletter

- *Post the city's event calendar on the city's website and link it to other organizations and media that have event calendars.*
- *Post the city's administrative process for event management on the city's website for prospective event organizers.*

C) Require approval for street closures three months in advance for large events

D) Avoid events on significant holy days that generate traffic to religious institutions located downtown.

E) Encourage event organizers to promote use of public transit and remote parking to participants

F) To the extent possible, limit the number of event street closures by using venues such as public parks, and public and private parking lots.

Councilor Smith said he would like to ensure that signs and other items posted for events are removed in a timely manner. He suggested the possibility of instituting a fee for not removing articles within the allotted time established by the City Manager.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Smith spoke to a number of calls he has received relative to the \$5,000.00 parking impact fee. He would like to see that matter to come back before the City Council and that the Planning Board re-considers the issue. City Manager Bohenko said that Planning Director Taintor will be providing a report back to the Council in a timely manner.

Councilor Kennedy asked for a report back from the City Manager as to whether there is a deed restriction related to Parrott Avenue. City Manager Bohenko informed Councilor Kennedy that City Attorney Sullivan will have a report back for the March 1, 2009 City Council meeting regarding this matter.

Councilor Dwyer requested that the City Council conduct a Work Session regarding the establishment of a Charter Committee for amendments to the City Charter.

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

At 9:05 p.m., Councilor Smith moved to adjourn. Seconded by Councilor Dwyer 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