

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, APRIL 19, 2010

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

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

Mayor Ferrini called the meeting to order at 7:05 p.m.

### **II. ROLL CALL**

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

### **III. INVOCATION**

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

### **IV. PLEDGE OF ALLEGIANCE**

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

### **PROCLAMATION**

1. New Hampshire Daughters of the American Revolution

Councilor Coviello read the Proclamation welcoming the attendees of the 107<sup>th</sup> Annual Convention of the New Hampshire Daughters of the American Revolution and extended the Council's gratitude for the DAR's continued efforts to promote patriotism, preserve our treasured history, and educate our young people about the courage and sacrifices of our Revolutionary War patriots. Tylene Jousse, member of the Portsmouth New Hampshire Local Chapter and Sarah Voll, head of the New Hampshire Organization accepted the award. Ms. Voll described the organization and thanked the Council for their welcome.

### **V. ACCEPTANCE OF MINUTES – DECEMBER 14, 2009; DECEMBER 15, 2009 AND APRIL 5, 2010**

1. Acceptance of Minutes – December 14, 2009 – Councilor Smith moved to approve and accept the minutes of the December 14, 2009 City Council meeting. Seconded by Assistant Mayor Novelline Clayburgh and voted. Councilors Lister and Coviello abstained.
2. Acceptance of Minutes – December 15, 2009 – Councilor Smith moved to approve and accept the minutes of the December 15, 2009 City

3. **Council meeting. Seconded by Assistant Mayor Novelline Clayburgh and voted. Councilors Lister and Coviello abstained.**
4. Acceptance of Minutes – April 5, 2010 – **Councilor Smith moved to approve and accept the minutes of the April 5, 2010 City Council meeting. Seconded by Assistant Mayor Novelline Clayburgh.** Councilor Dwyer stated she misspoke at the April 5, 2010 meeting and would like to correct her error in the April 5, 2010 minutes to reflect that the JBC public meeting on April 28<sup>th</sup> will be held at the Portsmouth High School Little Theater and not the Library in the Levenson Room as she had stated at the April 5, 2010 meeting. Motion passed.

## VI. PUBLIC COMMENT SESSION

There were no speakers.

## VII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Third and final reading of Ordinance Deleting Chapter 11, Article III, Section 11.310 – Construction Work Requiring Uniformed Policemen and Section 11.311 – Penalty for Non-Compliance; and Adopt New Provision – Chapter 8, Article VI: Construction Work Required Certified Flag Personnel

**Councilor Spear moved to pass third and final reading of the proposed Ordinance as amended. Seconded by Assistant Mayor Novelline Clayburgh.**

Councilor Smith asked how we are going to certify these flaggers. Steve Parkinson, Public Works Director stated the City will not certify the flaggers. He said we will have a list of certified flaggers to choose from. Councilor Smith asked if they have cards to show they are certified. Steve Parkinson stated they do. Councilor Smith said he would like to discuss an incident that happened today to a City employee with flaggers on Market Street. He said the stop lights were still going and the City employee was waived through a red light by a flagger and almost had a head-on collision with a truck. City Manager Bohenko asked Councilor Smith if it was a State job. Councilor Smith stated it was a State job using flaggers. City Manager Bohenko said the State is allowed to use flaggers by state statute. Councilor Smith stated the reason he is bringing it up is that he doesn't want the City to go into a situation where we are using flaggers and putting any of our citizens at risk. City Manager Bohenko suggested that Deputy Police Chief, Stephen Dubois provide him with a copy of the report on this incident and he would forward it on to the Council unless Deputy Chief Dubois is prepared to speak on this now. Deputy Chief Dubois stated that a flagger did wave the City employee through the red light and the flagger on the other side of Market Street also waved through a truck at the same intersection thereby causing the City employee to almost get hit. He also stated the employee had a young child in the car. City Manager Bohenko asked if the woman was an employee. Deputy Chief Dubois stated she was. City Manager Bohenko asked if she had a child in the vehicle. Deputy Chief

Dubois stated she did. He further stated she was not in a City vehicle, but was on her way into work. Councilor Smith stated he will not support this. He said he understands the idea of this, but the City does make some money on this. He said we do receive an hourly administration fee (approximately \$7.50 an hour) as well as a retirement cost for an active duty police officer. He further stated most police officers running this detail are retired officers and not getting additions to the retirement system. He said we are earning revenues off this.

**On a roll call vote 8-1, motion to pass third and final reading of the proposed Ordinance as amended passed. Assistant Mayor Novelline Clayburgh, Councilors Lister, Hejtmanek, Spear, Dwyer, Coviello, Kennedy and Mayor Ferrini voted in favor. Councilor Smith voted opposed.**

## **VIII. CONSENT AGENDA**

Councilor Coviello requested to remove Item B from the Consent Agenda.

### ***A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA***

- A. Acceptance of Donation from Jean Bartlett to Portsmouth Fire Department for the CO2 Fund - \$25.00 ***(Anticipated Action – move to accept and approve the donation to the Portsmouth Fire Department, as listed)***
  
- C. Acceptance of Donations to Peirce Island Committee for the purchase of benches and other activity associated with implementation of the Peirce Island Master Plan - \$1,111.75
  - Flatbread Company \$582.75
  - Raffle cash receipts \$279.00
  - Sean Meighan \$250.00***(Anticipated Action – move to accept and approve the donations to the Peirce Island Committee, as listed)***

**Councilor Smith moved to adopt the Consent Agenda. Seconded by Assistant Mayor Novelline Clayburgh and voted.**

- B. Letter from Jay Diener, Seacoast Half Marathon, requesting permission to hold the 5<sup>th</sup> annual Seacoast Half Marathon on Sunday, November 14, 2010 ***(Anticipated Action – move to refer to the City Manager with power)***

**Councilor Coviello moved to refer to the City Manager with power. Seconded by Assistant Mayor Novelline Clayburgh.**

Councilor Coviello asked if the work being done on the Sagamore Bridge would interfere with this marathon. City Manager Bohenko stated whenever he meets with people he informs them when it will be closed, including any temporary closures.

**Motion passed.**

**IX. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Letter from New England Relay requesting permission to pass through the community on Saturday, June 12, 2010 and Sunday, June 13, 2010 for an American Liver Foundation benefit

**Assistant Mayor Novelline Clayburgh moved to refer to the City Manager with power. Seconded by Councilor Dwyer.**

Councilor Coviello stated he has competed in this type of event and it is like locust moving throughout the State as they proceed to wipe out every restaurant, convenience store etc. as they travel through a City. He said this is a major boom to hotels, stores and things like that. He said we should encourage this type of thing.

**Motion passed.**

- B. Letter from Rhett Austell, III requesting permission to place a bench in Market Square in honor of his parents Rhett and Carol Austell

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

**X. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

**A. CITY MANAGER**

1. Request for Approval of Pole Licenses #63-0485, #63-0487 and #63-0489

**Councilor Smith moved to approve the request from PSNH for pole license agreement, #63-0485, #63-487 and #63-489 as recommended by the Public Works Department. Seconded by Councilor Kennedy and voted.**

2. Report Back Re: Brick Sidewalks

City Manager Bohenko stated Councilor Coviello had requested a report back regarding the policy on brick sidewalks in the Historic District. He stated over the course of the past six to eight years, sidewalks located within the Historic District have been constructed with brick when sidewalk improvements are carried out. He said he has attached a map depicting the boundaries of the Historic District. He said with the recent passing of the revised Zoning Ordinance, the Historic District was expanded down Islington Street to Jewell Court/Bartlett Street; down Lafayette Road to South Street; and on Hanover Street between Bridge Street and the Vaughan Mall. He said his staff has recommended that the sidewalks within these new Historic District areas be brick with the exception of Islington Street. He said one issue arose when parcels within the Historic District front on a side street, and the majority is not within the District (for

example along Middle Street) and it was decided to be consistent with the sidewalk material used along the majority of the side street. He said the second issue that arose has to do with sidewalks located outside the Historic District that have historically been brick. He said past practice with regard to these sidewalks has been determined through a separate vote of the City Council. He said when upgrades are made to other sidewalks in the City, concrete is used.

City Manager Bohenko said if the City Council wishes to formalize past practice, the policy would be as described below:

At the time improvements are made to City sidewalks, sidewalk material will be as follows:

1. Sidewalks within the Historic District will be brick with the exception of Islington Street starting from the old library going along Islington Street; and only a small portion of the side street is within the Historic District, in which case the sidewalk material in place along the majority of the side street will dictate.
2. Sidewalk material for sidewalks located outside the Historic District, which have historically been brick, will be determined by vote of the City Council.
3. All other sidewalks will be concrete.

**Councilor Coviello moved to authorize the City Manager to bring back a formal policy at the May meeting reflecting the proposed change. Seconded by Councilor Kennedy.**

Councilor Coviello stated there are two things interwoven in this issue, 1) the appearance of wasteful spending; and 2) neighborhood favoritism and preference. He said he would like to see brick kept to the downtown overlay. He believes the brick sidewalks are the branding of marketing in Portsmouth and we see revenues from that through tourism and businesses in the downtown area and these revenues are not being seen by having brick sidewalks all the way down Market Street or some of the other neighborhoods. He said it would be his preference to have it in line with the downtown overlay. City Manager Bohenko said we believe, from a staff prospective, that people want to see that replacement and it does make sense to replace with the same kind of brick. He said he believes what has been proposed is something that exists and is reasonable to replace. He further recommended concrete be used throughout the City other than in the Historic District.

Councilor Kennedy said the comments she is hearing is why the Historic District gets all the benefits. She asked if there has been any consideration for this kind of sidewalk for future projects. She also asked if the brick is more expensive. City Manager Bohenko stated we used stamped brick in other places and it didn't hold up. He said concrete is better.

Steve Parkinson, Public Works Director stated there have been a number of materials used for sidewalks in the past. He stated the City has used concrete, asphalt, stamped concrete and stamped asphalt. He said stamped concrete was ok, but the color is just not there and with the stamped asphalt, the color wore off in less than a year. He stated we have done some areas with stamped plastic asphalt, but is very expensive. Councilor Coviello asked if the plastic asphalt was used in Market Square. Steve Parkinson stated it was. Councilor Coviello asked if it has held up well. Steve Parkinson said we have had some repairs. Councilor Smith asked what was used in front of the Fire Station. Steve Parkinson stated it was an early form of plastic asphalt. He said it has held up fairly well.

Assistant Mayor Novelline Clayburgh asked if we were to delete some of Middle Street, could it be at Aldrich Road. City Manager Bohenko stated this is a good suggestion. He stated if the Council wants we can stop where we exist now. Steve Parkinson, Public Works Director, stated the last project stopped at Aldrich. Assistant Mayor Novelline Clayburgh asked if we know how much we would save if we did concrete there instead of brick. Steve Parkinson, Public Works Director said he would have to measure the area. City Manager Bohenko stated it would be approximately 30 percent.

Councilor Lister asked if one brick is better than another for handicapped areas. Steve Parkinson stated the present handicapped areas are concrete to prevent slipping and allow for smoother surfaces.

Councilor Dwyer asked about what the schedule for the Islington Street plan was. City Manager Bohenko stated we are showing concrete with some decorative design on it. Councilor Smith asked if there is anything in the Christian Shores area that is currently brick. Steve Parkinson said there is not. Councilor Smith said he has had a call asking when the brick sidewalks were going to be finished as their house is a couple houses past Aldrich Road and they are doing some brickwork on their house and they are waiting for it to come up. He said this is a catch 22 as the City Manager has already brought up.

Mayor Ferrini stated the motion on the floor is to vote for this map. He said if the Council wishes to discuss and work on it more that's fine, but it is not what the present motion on the floor is.

**Assistant Mayor Novelline Clayburgh moved to amend the motion to stop the brick sidewalk at Aldrich Road and finish with concrete. Seconded by Councilor Coviello.**

Councilor Coviello stated he will support the amendment, but would have preferred something smaller. Councilor Spear asked what the time is for having the policy in place. City Manager Bohenko said the Council can have this policy in place and change it, but what he wants to do is have a policy in place that when they go out for bid they will know what the Council wants so we won't have to reverse ourselves.

Councilor Dwyer stated she will not support the amendment as this is a major gateway into our City with beautiful houses along it. Councilor Smith stated he will not support this amendment. He said he would like the City Manager to bring back his policy, see what is in front of us and then possibly make adjustments. He said he would like a chance to drive by the area and find out how far down the sidewalks go.

Mayor Ferrini passed the gavel to Assistant Mayor Novelline Clayburgh.

Mayor Ferrini stated he believes the amendment is well intended and he does understand that certain neighborhoods are favored over others with regards to the brick sidewalks and certainly in some cases he agrees. He said in general he believes we would be better off to proceed with the policy coming back. He said he will not support a street by street analysis at this time.

Assistant Mayor Novelline Claybaugh returned the gavel to Mayor Ferrini.

Assistant Mayor Novelline Clayburgh and Councilor Coviello withdrew their amendment and second.

**Motion passed 8-1. Councilor Coviello voted opposed.**

City Manager Bohenko stated he would bring back the policy with the recommendations and we can go from there.

**B. MAYOR FERRINI**

1. Appointments to be Voted:
  - Stephen Philp – Appointment to the Peirce Island Committee
  - Kathleen Bergeron – Appointment to the Citywide Neighborhood Steering Committee
  - Kent Kirkpatrick – Appointment to the Traffic & Safety Committee
  - Harold Whitehouse – Appointment to the Traffic & Safety Committee

**Councilor Smith moved to appoint the following individuals:**

- **Stephen Philp – Peirce Island Committee – Initial Appointment until December 31, 2011**
- **Kathleen Bergeron – Citywide Neighborhood Steering Committee – Initial Appointment until April 1, 2012**
- **Kent Kirkpatrick – Traffic & Safety Committee – Initial Appointment until January 1, 2012**
- **Harold Whitehouse – Traffic & Safety Committee – Initial Appointment until January 1, 2012**

**Seconded by Councilor Lister and voted.**

2. Letter from Richard "Brooksie" Brooks requesting the participation of the City Council in the Memorial Day parade and services on Monday, May 31, 2010

Mayor Ferrini announced that Mr. Brooks has requested the Council participate in a Memorial Day parade and services on Monday, May 31, 2010.

### **C. COUNCILOR DWYER**

1. Forum on Transportation for a Sustainable Seacoast

Councilor Dwyer outlined the forum on Transportation for a sustainable Seacoast Portsmouth which will be held at the Levenson Room on Monday April 26, 2010 from 6:00 p.m. to 8:00 p.m.

### **XI. MISCELLANEOUS/UNFINISHED BUSINESS**

Mayor Ferrini stated as a reminder there will be budget work sessions on Wednesday April 21, 2010 for the School budget, Thursday, April 22, 2010 for the Municipal budget and Wednesday April 28, 2010 for the Fire Department and Police Department budgets.

Councilor Kennedy asked if residents can get a copy of the budget in Excel. City Manager Bohenko said each department sends their inputs into the Finance Department in draft. The Finance Department then works within Pentamation and creates a document. He said this document is then sent off to the printer. He said we do not have all the files in final form in excel. He said he has placed the information that was sent to the printer on line, but he does not have the information in Excel format to provide.

Councilor Coviello asked if the presentation for the Middle School was on the 28<sup>th</sup>. Councilor Dwyer stated the Middle School Building Project Update would be held at the Portsmouth High School Little Theater on Wednesday, April 28, 2010 from 5:30 p.m. to 6:30 p.m.

Councilor Spear asked within the budget process, in the event a Councilor proposes a budget that would be different from the City Managers budget, what are the steps. City Manager Bohenko said it would be useful for the Council to make his staff aware of any areas the Council wants to adjust. Mayor Ferrini said since the 2005/2006 budget, there has been a practice that the end of every work session the Council develop a few viable things for potential reduction or change and that becomes part of the information discussion at the May 11<sup>th</sup> meeting and the Council can pull a straw vote to see where we are at. City Manager Bohenko stated the Council will get resolutions at the May 11<sup>th</sup> meeting that will have blank lines for Police, Fire, School and Municipal budgets. He said the Council will still have the right to amend at that point.

Assistant Mayor Novelline Clayburgh asked if the State should give the City some money, such as room and tax dollars, you would tell us. City Manager Bohenko said absolutely.



**XII. ADJOURNMENT [AT 10:00PM OR EARLIER]**

**At 8:50 p.m., Councilor Smith moved to adjourn. Seconded by Assistant Mayor Novelline Clayburgh and voted.**

Respectfully submitted by:

Dianne M. Kirby, Deputy City Clerk