

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, AUGUST 2, 2010

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

At 6:00 p.m., a Work Session was held regarding the Continuing Care Retirement Community (CCRC).

### **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, Coviello, Kennedy and Smith

Absent: Councilor Dwyer

### **III. INVOCATION**

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

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

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

### **PROCLAMATION**

#### **1. National Night Out (Not on Agenda)**

Councilor Coviello presented the Proclamation to Captain Schwartz declaring August 3, 2010 as "National Night Out" in Portsmouth. Captain Schwartz accepted the Proclamation with thanks and appreciation and encouraged the Councilors to attend the various neighborhoods that will be celebrating National Night Out tomorrow evening. Mayor Ferrini announced that the Pine Street Playground Ribbon Cutting ceremony will take place tomorrow evening at 5:30 p.m.

### **V. ACCEPTANCE OF MINUTES – JULY 19, 2010**

**Councilor Smith moved to approve and accept the minutes of the July 19, 2010 City Council meeting. Seconded by Assistant Mayor Novelline Clayburgh and voted.**

## VI. PUBLIC COMMENT SESSION

Mary Lou McElwain spoke regarding the CCRC in terms of costs and locations. She said the location is a concern for Islington Street and its residents. She encouraged the City Council to walk the land because there are wetlands at the end of Barberry Street and it is a nature preserve. She said that City has seen a great deal of growth in the last 6 years and suggested that a moratorium be placed on new growth.

## VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donations to the Coalition Legal Fund
- Town of Sugar Hill - \$500.00
  - Town of Hebron - \$1,500.00
  - Town of Rye - \$5,000.00
  - Town of Sunapee - \$5,000.00

**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. Conservation License Plate Grant for City-owned Building Leased by Players' Ring

**Councilor Smith moved to accept and expend a grant from the NH Division of Historical Resources Conservation License Plate Grant Program in the amount of \$5,276.00 for the purpose of making repairs to the City-owned building on Marcy Street leased by the Players' Ring. Seconded by Councilor Kennedy and voted.**

- C. Acceptance of Grant from the NH Department of Highway Safety for "Portsmouth Enforcement Patrols" to the Police Department - \$6,050.00

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

- D. Acceptance of Grant from the NH Department of Highway Safety for "Portsmouth Red Light Running Enforcement Patrols" to the Police Department - \$6,050.00

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

- E. Acceptance of Grant from the NH Department of Highway Safety for "Portsmouth Sobriety Checkpoints" to the Police Department - \$9,900.00

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

- F. Acceptance of Grant from the NH Department of Highway Safety for "Portsmouth DWI Patrols" to the Police Department - \$6,050.00

**Councilor Smith moved to approve and accept the grant to the Portsmouth Police Department, as listed. Seconded by Assistant Mayor Novelline Clayburgh and voted.**

## VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

*There are no items under this Section of the Agenda*

## IX. CONSENT AGENDA

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

- A. Acceptance of Donations to the Art-Speak Overnight Art Sponsorship - \$6,250.56
- Cash \$28.56
  - Jack & Diane Chambers \$50.00
  - Newmarket International \$150.00
  - M. Christine Dwyer \$6,022.00

***(Sample motion – move to approve and accept the donations for the Art-Speak Overnight Art Sponsorship)***

- B. Letter from Barbara Massar, Pro Portsmouth, Inc. requesting permission to hold First Night Portsmouth 2010 on Friday, December 31, 2010 (***Anticipated action – move to refer to the City Manager with power***)

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

## X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Patricia Lanciani requesting to donate a bench in the Market Square area in memory of her parents

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

Councilor Kennedy expressed concern that there be a plan and number of benches that are allowed. City Manager Bohenko said there is a process and a standard cost associated with the benches.

**Motion passed.**

## **XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

### **A. CITY MANAGER**

#### 1. 2700 Lafayette Road Auction (Old Fire Station 2)

City Manager Bohenko informed the Council that the former Fire Station 2 auction will take place on August 18, 2010 at 11:00 a.m. and Paul McGinnis, Inc. will conduct the auction. He said that he will attend the auction and authorize the sale in the best interest of the City.

**Councilor Smith moved to authorize the City Manager to take all necessary action in the best interest of the City to sell 2700 Lafayette Road on August 18, 2010. Seconded by Councilor Coviello and voted.**

#### 2. New Castle Wastewater Agreement

City Manager Bohenko reported on a proposed Wastewater Agreement with the Town of New Castle. He said the highlights of the agreement as proposed are as follows:

- A 30-year term (the same term as the original agreement);
- That New Castle will be charged the average household user rate as its waste is almost exclusively residential in nature;
- The rate will automatically be adjusted under the agreement as annual changes are made to the sewer rates as part of the budget process;
- New Castle will at its own cost update its telemetry for the purpose of monitoring flow into the system to obtain better billing data.

He said the proposed Agreement is in the best interest of the City and New Castle. The rate which New Castle is prepared to pay (and has been paying since January 1, 2009 in anticipation of this agreement being finalized) is an increase over the prior rate. The amount of flow received from New Castle is less than two percent of the flow to Peirce Island and is not a determining/influential factor in the wastewater master planning process. He said to put this into perspective, it is estimated that we bill a total of \$230,000 annually to New Castle. He also indicated that it is likely that this is the environmentally best option for New Castle and the surrounding water bodies.

**Councilor Coviello moved to approve the proposed Sewer Agreement with the Town of New Castle, and further, authorize the City Manager to execute this Agreement. Seconded by Assistant Mayor Novelline Clayburgh.**

Councilor Kennedy said that she is concerned with the 30 year Agreement. She said that the waterway may not be opened up in the future and that is a real issue of concern. City Manager Bohenko said that is a concern but the EPA may require us to accept their flow because they have no other alternatives available. He also stated with the nature of the Federal Government we should work with other communities.

City Manager Bohenko said that this takes our revenue and triples it; it is an extension of the City of Portsmouth.

City Attorney Sullivan said that there is a tremendous amount of engineering on the waterway and the objection may be removed and there is a cost to that.

Councilor Kennedy said she would like an addition to the agreement that we could open the waterway at their cost. City Manager Bohenko said we could certainly ask them.

Deputy Public Works Director Allen explained the water line. He said we could ask if they would allow the item added to the agreement. City Manager Bohenko said the City Council could authorize him to make the change or he could withdraw the item and bring it back to the City Council at another date.

Mayor Ferrini said where the City Manager said he would withdraw the item, there is no vote required by the City Council.

**City Manager Bohenko withdrew the item from the agenda.**

Assistant Mayor Novelline Clayburgh said that the City Manager and staff have worked on this for the last 2 years and the Council should move forward with this agreement.

3. Request for a License from Greg Walsh, owner of Working Class Music and Minerals property located at 90B Fleet Street to install a projecting sign

City Manager Bohenko said that this license is to install a projecting sign at 90B Fleet Street.

**Councilor Coviello moved to accept the recommendation of the Planning Board with the aforementioned stipulations and approve the request of Greg Walsh, owner of Working Class Music and Minerals to install a projecting sign on an existing bracket at 90B Fleet Street and further authorize the City Manager to execute a License Agreement for this request. Seconded by Councilor Smith 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, 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*

4. Request for a License from Helen Marks, owner of Spiritual Readings by Duchess property located at 74 Congress Street to install a projecting sign

City Manager Bohenko said that this license is to install a projecting sign at 74 Congress Street.

**Councilor Lister moved to accept the recommendation of the Planning Board with the aforementioned stipulations and approve the request of Helen Marks, owner of Spiritual Readings by Duchess to install a projecting sign on an existing bracket at 74 Congress Street and further authorize the City Manager to execute a License Agreement for this request. Seconded by Councilor Smith 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, 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*

5. City Council Referral – Off Street Parking in the Central Business District  
(Parking Focus Group Report)

City Manager Bohenko said that the Planning Board formed a focus group on this matter. He advised the City Council that this would change the Optional Payment in Lieu of Providing Required Off-Street Parking Spaces. In addition, he said there are 7 recommendations outlined in the report and requested to establish a work session to review this report on September 20, 2010.

**Councilor Spear moved to establish a work session on Monday, September 20, 2010, to review with the City Council what actions that the Council may want to proceed with regarding this matter. Seconded by Councilor Hejtmanek.**

Councilor Smith asked if this should go to the Parking Committee before the work session. City Manager Bohenko said we could amend the motion to send the report to the Parking Committee this month. Councilor Spear accepted that as part of the motion.

**The motion shall read as follows:**

**Councilor Spear moved to establish a work session on Monday, September 20, 2010, to review with the City Council what actions that the Council may want to proceed with regarding this matter and further, to refer the report to the Parking Committee for review. Seconded by Councilor Hejtmanek.**

Councilor Kennedy requested that a copy of the report be forwarded to the Sustainability Committee for review. City Manager Bohenko said he would send them a copy of the report.

Councilor Spear said that a presentation was conducted at the Planning Board meeting. Councilor Smith said he would like to have that presentation at the Parking Committee meeting as well.

**Motion passed.**

6. Wetlands Ordinance – Proposed Amendments

City Manager Bohenko would like Planning Director Taintor to review this matter and bring this back for first reading at the August 16, 2010 meeting.

Planning Director Taintor said that these amendments are minor in nature. He outlined the changes this will allow for streamlining the process. He also indicated that there will be future changes brought forward as well.

The proposed changes are as follows:

- Change “use” to “use, activity or alteration” in several locations (housekeeping change);
- Exempt small emergency generator pads from the requirement to obtain a conditional use permit;
- Authorize the Planning Director to require review by an independent wetland scientist or other special studies;
- Update the reference manuals for storm water best management practices (BMPs).

**Assistant Mayor Novelline Clayburgh moved to schedule this matter for first reading at the August 16, 2010 City Council meeting. Seconded by Councilor Coviello and voted.**

7. Polling Hours for September 14, 2010 State Primary Election

City Manager Bohenko advised the City Council that City Clerk Barnaby is requesting the polling hours for the September Primary be established from 8:00 a.m. – 7:00 a.m.

**Councilor Smith moved to set the polling hours from 8:00 a.m. – 7:00 p.m. for the State Primary Election on Tuesday, September 14, 2010. Seconded by Assistant Mayor Novelline Clayburgh and voted.**

8. Request for Dumpster License Agreement Re: HuLa, LLC d/b/a/ Foobar

Mayor Ferrini informed the City Council that he would be abstaining from this matter. He passed the gavel to Assistant Mayor Novelline Clayburgh.

**Councilor Smith moved to authorize the City Manager to enter into a dumpster license agreement for the benefit of HuLa, LLC d/b/a Foobar. Mayor Ferrini abstained from voting on this matter. Seconded by Councilor Spear and voted.**

Assistant Mayor Novelline Clayburgh returned the gavel to Mayor Ferrini.

9. Request for License from Brad Sawler, Oxland Builders for use of one parking space in front of 55 High Street

City Manager Bohenko said that this would dispose of materials at the site and said that a map of the area has been provided for the Council to review.

**Councilor Smith moved to authorize the City Manager to enter into a license agreement with Oxland Builders for one parking space on High Street to facilitate construction activities at 55 High Street. Seconded by Assistant Mayor Novelline Clayburgh and voted.**

10. Request for License from Mark McNabb, 82-86 Congress Street

City Manager Bohenko informed the City Council that Mark McNabb is looking to do extensive work to the outside of the building. He said a license is being requested for the period of September 1 through May 30, 2011. He also indicated that the dumpster would be in place for 4 weeks and the travel way would remain passable for vehicles. City Manager Bohenko recommended that the City Council authorize him to enter into the license for the construction activities.

**Councilor Smith moved to authorize the City Manager to enter into a license with 82 – 86 Congress Street LLC to facilitate construction activities. Seconded by Assistant Mayor Novelline Clayburgh and voted.**

City Manager Informational Items

3. *Press Release Re: National Night Out*

Mayor Ferrini advised the City Council that there is a new sign up sheet to participate in National Night Out. He said it is difficult to attend all the locations and suggested that the Councilors try to attend some of the new neighborhoods, that are participating this year. He further stated that the City Council could e-mail the City Manager where each City Councilor plans to attend.

**B. MAYOR FERRINI**

1. Letter from Gerald Howe, Police Commission Chair, Re: Independent Survey of the Portsmouth Police Department requesting the appointment of Councilor Chris Dwyer to serve on the Steering Committee

Mayor Ferrini reported that he will be appointing Councilor Dwyer and Councilor Spear to serve on the Police Department Independent Survey Steering Committee.



**XII. MISCELLANEOUS/UNFINISHED BUSINESS**

City Manager Bohenko provided a copy of a report from Councilor Dwyer regarding the Middle School. Mayor Ferrini advised the Council that this matter will be placed under Councilor Dwyer's name for the next agenda.

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

**Assistant Mayor Novelline Clayburgh moved to adjourn at 7:50 p.m. Seconded by Councilor Lister 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