

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, NOVEMBER 22, 2010

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

Assistant Mayor Novelline Clayburgh called the meeting to order at 7:00 p.m. She thanked the Council and City staff for attending the Council Retreat held at the Library on 11/20/2010 for 8 hours. She also wished everyone a Happy Thanksgiving.

II. ROLL CALL

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

Absent: Mayor Ferrini

III. INVOCATION

Assistant Mayor Novelline Clayburgh asked everyone to join in a moment of silent prayer.

IV. PLEDGE OF ALLEGIANCE

Councilor Smith led the Pledge of Allegiance.

V. ACCEPTANCE OF MINUTES – October 18, 2010 and November 8, 2010

Councilor Smith moved to accept the October 18, 2010 Council Meeting minutes. Seconded by Councilor Lister and voted.

Councilor Smith moved to accept the November 8, 2010 Council Meeting minutes. Seconded by Councilor Coviello and approved.

VI. PUBLIC COMMENT SESSION

Peter Bresciano– spoke regarding the assessments beginning with citing Section 9.1 of the Assessment Manual regarding Property Record Cards. He continued by explaining that from 1994 – 2000 we used Patriot Properties tax cards which gave all of the information on the front of the card and the codes on the back which showed how the rates were calculated. He stated from 2000-2010 we used TLC cards and now we are changing again to the Vision card system. He stated that people need to compare their cards from 2006 to the 2010 information as he found discrepancies on his own information. He concluded by addressing the letter on the agenda requesting that the Vision cards be put on line, stating that he doesn't feel this would be cost effective.

Bob Hassold – spoke in favor of the holiday parking in downtown for 3 weeks. He related a story from a recent trip to Maryland where the parking meters gave messages to people encouraging them to park in the parking garage if they were going to be there for over 2 hours. He stated the rates were 25 cents per fifteen minutes and the parking garage was 75 cents an hour. He concluded by stating the City of Portsmouth should also consider doing this type of system.

Bill St. Laurent - stated that he had understood that the public was going to be able to review proposed contracts for at least a week prior to the Council voting on them to allow for input and comment and hopes that is still going to be the case. He continued that he is also glad that the Council is getting started on the budget earlier this year. He then asked about the Charter Commission that was supposed to be formed stating that he would like to see a full blown Commission formed this time and not just a committee to review it. Finally, he suggested that a blue ribbon committee on assessments be formed to include the City Assessor that can answer people's questions.

Mary Lou McElwain – discussed sidewalk snow plowing stating that Portsmouth is a walkable City except for 4 months of the year. She stated that the sidewalk clearing is inconsistent as the elderly and disabled aren't able to clear in front of their houses. She suggested that instead of clearing the sidewalks by pushing the snow into mounds, that the snow be removed entirely. She suggested collaboration between the business owners, residents and DPW to find a solution.

VII. PUBLIC HEARINGS

- A. ORDINANCE AMENDING THE CITY ZONING ORDINANCE, CHAPTER 10, ARTICLE 5, SECTION 10.517 REGARDING ROOFTOP APPURTENANCES AND OTHER ROOFTOP FEATURES

At the request of City Manager Bohenko, Planning Director Rick Taintor reviewed the proposed changes to Chapter 10, Article 5, Section 10.517 regarding rooftop appurtenances.

Assistant Mayor Novelline Clayburgh read the legal notice, declared the public hearing open and called for speakers.

Bill St. Laurent – stated he feels we need to be careful when extending building heights so as not to obstruct views from other buildings that people may have specifically located to because of the view.

After calling for any further speakers and seeing none, Assistant Mayor Novelline Clayburgh declared the public hearing closed.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second reading of Ordinance amending Chapter 10, Article 5, Section 10.417 regarding Rooftop Appurtenances and other Rooftop Features.

Councilor Smith moved to pass second reading and schedule and third and final reading on the proposed Ordinance, as presented, at the December 6, 2010 City Council meeting.

Councilor Coviello asked Planning Director Taintor if this is a “permissive” ordinance. Mr. Taintor stated yes, it will only be allowed in the specifically stated “Gateway District”.

Councilor Kennedy asked about the visual point of the new height allowance. Mr. Taintor explained that it would be visible from a distance and not up close.

Councilor Smith stated that this originated due to a letter from Attorney Loughlin and asked if this amendment addresses his issue. Mr. Taintor stated yes it does.

Councilor Dwyer stated that this is a great vote of confidence of the Gateway concept and stated that for right now this applies only to the Lafayette Road gateway district. She stated that there is the possibility of expanding the gateway though, so the concern about the views would go along with that as well.

Motion passed.

- B. Third and final reading of Proposed Ordinance amending Chapter 1, Article IV, Section 1.404(A)(1) – Commissions and Authorities, Historic District Membership.

Councilor Smith moved to pass third and final reading of the proposed Ordinance, as presented. Seconded by Councilor Dwyer and voted.

IX. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Jill Etori, Cystic Fibrosis Foundation, requesting permission to use Peirce Island for the 2011 Seacoast Safari: CF Cycle for Life on Saturday, July 15, 2011 from 7:45 a.m. – 10:00 a.m.

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

Councilor Smith stated that he would like included with this and other similar requests to ask the City Manager to direct these organizations to remove their signs, etc. after the events take place.

Motion passed.

- B. Letter from Robin Normandeau requesting that the City Council publish the Vision appraisal cards on-line.

Councilor Smith moved to refer to the City Manager for a report back to include a cost analysis. Seconded by Councilor Lister and voted.

- C. Letter from Attorney Alec McEachern, Shaines & McEachern, PA, regarding Request for License Agreement, Easement Agreement and Amended Private Street Easement Agreement in connection with 99 Hanover Street.

Councilor Smith moved to authorize the City Manager to proceed with the execution and delivery of the requested License Agreement, Easement Agreement, and amended Private Street Easement Agreement along with any modifications and further amendments necessary in connection with 99 Hanover Street once these documents are reviewed and recommended by the City Attorney. *There was no second to the motion.*

City Attorney Sullivan explained that this request came in right at the deadline for the Agenda and included very technical information. He stated that when the staff reviewed the documents the next day, they found that due to the time crunch they were not in proper form. Also, any easement that will be granted by the city requires a report back from the Planning Board and also one agreement which needs to be amended is the private street agreement with the developer. He stated in an effort to resolve these problems and cooperate with the developer as much as possible in the order to proceed expeditiously, he has a recommended motion which he then read. He stated this matter is better suited to the Planning Board as it involves plans which have been to the Planning Board and will satisfy ordinance requirements. He stated if the Council gives the City Manager authority to react to the Planning Board recommendations then this matter can be moved along quickly as it can be.

Councilor Coviello moved that the correspondence dated November 18, 2010 from Attorney McEachern regarding Parade Office, LLC be referred to the Planning Board with a request that a report be issued back to the City Manager; and further moved that the City Manager be authorized to negotiate, execute and deliver any necessary documents required to respond to the requests of Parade Office LLC in accordance with the report to be received from the Planning Board. Seconded by Councilor Smith.

Councilor Kennedy stated that there are overhangs on streets which technically come back to the Council and there are some overhangs that she has problems with so she is concerned that this won't come back for final approval.

City Attorney Sullivan stated there is no question that there is a better procedure to follow if more time was allowed but in this particular case due to circumstances in no way created by the City government, the developer got into a bind and time crunch. He stated the protection that will be in place in regards to these easements, is that the Planning Board will have reviewed them.

Councilor Dwyer stated we will also have a report back on the disposition of this. She stated that she has had questions from people as to what this development will be, condos, apartments, how many, etc. She stated she knows that this isn't usually included with the report back, but would like to know because people are asking.

Councilor Kennedy stated she is confused as to why we are worried about making allotments for this individual when we don't do it for others. She related an instance of another person with a time crunch that we did not make allotments for him. She stated she has a problem with setting a precedence of not following protocol.

Motion passed on a 6-2 vote. Councilors Spear and Kennedy voted opposed.

X. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Report Back from Conservation Commission Re: Creek Farm Trail.

Councilor Kennedy moved to accept the proposal to move ahead in developing a concept for a trail from The Society for the Protection of New Hampshire Forests which would be partly on City property along Little Harbor, as well as land at the Creek Farm and the Wenworth Coolidge Mansion.

Councilor Lister asked if there will be information made available for the public. City Manager Bohenko stated they need to develop the concept first and then it will be brought forward. He stated he will urge a public session be held.

Councilor Hejtmanek stated he used to live in that area and it is a beautiful location.

2. License Request from Witcher Builders re: 111 Market Street.

Councilor Smith moved to authorize the City Manager to enter into a License Agreement with Witcher Builders consistent with the terms outlined in the City Manager's memorandum to facilitate construction activities at 111 Market Street. Seconded by Councilor Lister.

Councilor Smith stated he is glad to see this come forward to help alleviate some of the dilemmas that have been discussed.

Councilor Kennedy asked who will be responsible for making sure the sidewalks are plowed. City Manager Bohenko stated they will be.

Motion passed on a 7-0 vote. Councilor Coviello abstained.

Informational Items

1. 99 Bow Street Update
2. Events Listing

City Manager Bohenko stated for the Council's information he will be meeting with the Seacoast Grower's Association and representatives from the Cottage Apartments to try to come to a consensus or look at other locations for the Farmer's Market.

Councilor Kennedy asked about 99 Bow Street and when it will go into effect. City Manager Bohenko stated this will be a month to month instead of a blanket extension. Councilor Kennedy stated there was a traffic directing issue recently.

B. MAYOR FERRINI

1. Appointments to be Voted:

- Eric Gregg – Economic Development Commission

Councilor Smith moved to approve the appointment of Eric Gregg to the Economic Development Commission. Seconded by Councilor Coviello and voted.

- Kory Sirmaian – Recreation Board

Councilor Smith moved to approve the appointment of Kory Sirmaian to the Recreation Board. Seconded by Councilor Coviello and voted.

- Todd Henley – Recreation Board

Councilor Smith moved to approve the appointment of Todd Henley to the Recreation Board. Seconded by Councilor Coviello and voted.

2. Resignation – Linda King from the Peirce Island

Councilor Smith moved to accept with regret and appreciation the resignation of Linda King from the Peirce Island Committee. Seconded by Councilor Coviello and voted.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Spear stated he wanted to clarify recent comments that items needed to be submitted in writing by Councilors for the Agenda stating that Rule 9 of the Council Rules does not require written material be submitted. Assistant Mayor Novelline Clayburgh stated she would like that issue to wait until the Mayor is there to address it as it was his request.

Councilor Spear stated his other issue is regarding the Parking Committee's vote to allow holiday parking for 3 weeks stating that his feeling is that parking meters are meant to encourage a turnover of customers for the downtown businesses and feels that maybe this should be looked at next year and maybe not done. Councilor Smith explained that this has been done for the last 15 years and is a goodwill gesture to visitors to Portsmouth. He stated that the parking enforcement will still be in effect, but this is a budgeted item and has been very successful.

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

Councilor Coviello moved to adjourn at 7:50 p.m. Seconded by Councilor Smith and voted.