

## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, AUGUST 15, 2011

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

### **I. CALL TO ORDER [7:30PM or thereafter]**

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

### **II. ROLL CALL**

Present: Mayor Ferrini, Councilors Lister, Hejtmanek, Dwyer, Coviello, Kennedy and Smith

Absent: Assistant Mayor Novelline Clayburgh and Councilor Spear

### **III. INVOCATION**

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

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

Councilor Lister led the Pledge of Allegiance.

### **PRESENTATION**

1. Flag flown by the USS New Hampshire over the North Pole

Stephanie Secord and Doug Bates presented Mayor Ferrini with a Flag flown by the USS New Hampshire over the North Pole. Mayor Ferrini accepted the Flag with thanks and appreciation.

### **V. ACCEPTANCE OF MINUTES – AUGUST 1, 2011**

**Councilor Smith moved to approve and accept the minutes of the August 1, 2011 City Council meeting. Seconded by Councilor Lister and voted.**

### **VI. PUBLIC COMMENT SESSION**

Jim Noucas and John Tabor, Portsmouth Listens, invited the City Council to attend the Reimer Hall, Kelsey Center, Green Acre Bahai School and Conference Center in Eliot, Maine on Saturday, August 20, 2011 at 7:30 p.m. where Portsmouth Listens will be awarded the 2011 Sarah Farmer Peace Award. This Award is given to Portsmouth Listens in acknowledgement of the importance of dialogue and good listening to the resolution of problems and the building of peaceful communities.

Mark Brighton requested that the City Council not approve the request of the Discover Portsmouth Center for a waiver of permit fees associated with their rehabilitation project. He stated that the Discover Portsmouth Center is no different than anyone else that seeks a permit.

Jeffrey Purtell stated that all city unions should be required to change their health insurance to the School Care program through Cigna. He indicated that health insurance is a major line item in the budget and encouraged the City Council to keep the public informed of where things stand in terms of this matter.

Bill St. Laurent stated that the Discover Portsmouth Center is responsible for the upkeep of the building and should be required to pay for the building permit and not be granted a waiver by the City.

James Boyle spoke regarding drainage issues he is experiencing with his property. He also spoke to the review of the property by the Department of Environmental Services.

## **VII. PUBLIC HEARING**

### **A. PROPOSED CHARTER AMENDMENT RELATIVE TO PROHIBITING MUNICIPAL EMPLOYMENT OF CERTAIN ELECTED OFFICIALS**

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

John Sullivan said he feels the appropriate place for this type of change should be part of the Code of Ethics contained in the City Ordinance Book. He further stated when someone takes a position with the City they should be required to read and sign a statement indicating that they are aware of this item in the Code of Ethics.

Bill St. Laurent said he is in favor of the amendment appearing as a referendum question on the November Municipal Election ballot. He also stated that he feels there should have been a Charter Commission appointed to review the entire City Charter and not have done it through a Charter Advisory Committee.

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

**Councilor Smith moved to suspend the rules in order to take up Item X. A.3. - Naming of Granite Street Softball Field. Seconded by Councilor Lister and voted.**

#### **X. A.3. Naming of Granite Street Softball Field**

City Manager Bohenko stated that the Recreation Board met in a Work Session to discuss the naming of the Softball Field at Granite Street. He indicated that Recreation Director Wilson and Recreation Board Chair Diemer are present this evening to review the criteria for naming a field or facility.

Recreation Board Chair Diemer reported that the Recreation Board met to discuss the criteria of naming fields and facilities. Recreation Director Wilson provided copies of the criteria to the City Council. Mr. Diemer reviewed the Dedication Request Form that has been created and should be submitted to Recreation Director Wilson which would then be forwarded to the Recreation Board for consideration.

Councilor Dwyer said that this is a good plan but would like to see the form have a section to indicate the component for the naming.

Councilor Kennedy asked if the Board considered having letters of reference to be submitted with the form. Mr. Diemer said that additional letters could be submitted as part of the process.

Councilor Lister thanked Mr. Diemer for bring the matter forward and for the report back being made in such a timely manner.

Councilor Coviello spoke to the discussion of the creation of a "wall of honor". Mr. Diemer said that they are in the process of considering 2 requests they've received.

**Councilor Smith moved to name the new softball field the Alumni-Wentworth Field. Seconded by Councilor Dwyer.**

Councilor Smith thanked the Recreation Board for their work on this matter. He is pleased that we can honor a number of people by way of a "wall of honor."

Councilor Coviello said in the City we have so many people that could be recognized as a volunteer in the City and the wall is a perfect way to do so.

Mayor Ferrini thanked the Recreation Board for their work on this matter and the timely report back.

**Motion passed.**

## **VIII. CONSENT AGENDA**

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

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

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

- A. Letter from Mark Brighton, President of The Association of Portsmouth Taxpayers, regarding health care for employees/unions in the City of Portsmouth  
*(Attached is response from City Manager to Mr. Brighton regarding this matter)*

**Councilor Coviello moved to accept the letter and place it on file. Seconded by Councilor Lister.**

Councilor Coviello asked how long School Care has been an available health insurance option for the City. City Manager Bohenko stated that School Care has been part of the negotiation process for the last 8 years. He said that the Supervisory Management Alliance (SMA) went with School Care several years ago. In addition, he further stated that the Professional Management Association (PMA) volunteered to reopen their contract to change the insurance to School Care.

Councilor Lister said he appreciates the Association of Portsmouth Taxpayers for sending a letter to the City Council and thanked the City Manager for his response relative to the health insurance. He said the City employees understand that we need to be creative with changes and it was the management team that initiated this change in their insurance. He also said that collaboration is the key to economic survival.

**Motion passed.**

- B. Letter from Marsie Silvestro, A Safe Place, requesting permission to hold a candle light vigil on Thursday, October 6, 2011 from 6:00 p.m. – 7:00 p.m. at the Vaughan Mall

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

- C. Letter from Gene Fisk, Gene Fisk & Associates, LLC, requesting the City consider selling a small parcel of land 175/177 Myrtle Avenue between Van Aken's and the bypass

**Councilor Smith moved to refer to the Planning Board for report back. Seconded by Councilor Lister and voted.**

- D. Letter from Maryellen Burke, Portsmouth Historical Society, requesting a Waiver of Permit Fees for the Discover Portsmouth Center

Councilor Smith stated that he would be abstaining from voting on this matter.

**Councilor Dwyer moved to waive the permit fees associated with the Discover Portsmouth Center rehabilitation project as requested in the letter dated August 8, 2011. Seconded by Councilor Hejtmanek.**

Councilor Dwyer said she agrees with Councilor Lister's former statement that collaboration is the key to economic survival. She said that the building belongs to the City and in the long run Discover Portsmouth Center is going to raise a large amount of funding to maintain the building. In addition, she stated that the City has granted such requests with large renovations; one example would be the North Church Steeple Project.

Councilor Hejtmanek said he does not feel granting this request would set a precedent.

**Motion passed with Councilor Smith abstaining from voting.**

## X. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

### A. CITY MANAGER

#### 1. 1. Redistricting Report

City Manager Bohenko requested that City Clerk Barnaby address this matter with the City Council. City Clerk Barnaby reviewed her report dated July 6, 2011 which outlines the detailed process used for the Redistricting Ward Boundaries. She discussed the process she and GIS Coordinator McCarty used in taking the census data blocks and placing them over the existing ward map to discuss various changes that could possibly take place. City Clerk Barnaby projected the proposed ward map depicting the new boundary lines by using our equalized population of 4,247. In closing, at the recommendation of Deputy Secretary of State Dave Scanlan, the City of Portsmouth should request that a session law change be done and that the Legislature act on the changes for the January 2012 session.

**Councilor Smith moved that City Clerk Barnaby be authorized to submit the adjusted ward lines on behalf of the City Council to the Legislature requesting a session law change to act upon the reflected new boundaries in January 2012. Seconded by Councilor Lister and voted.**

#### 2. Proposed Charter Amendment

**Councilor Smith moved to authorize the City Clerk to place the Referendum Question, as presented, on the November 8, 2011 Municipal Ballot incorporating the following new provision in the Municipal Charter.**

***No member of the City Council, School Board, Fire Commission or Police Commission shall apply for or become an employee of the City until the expiration of the term for which that person was elected to office.***

**Motion was seconded by Councilor Coviello.**

Councilor Coviello questioned based on the Public Comment Session whether this matter should be included in the Code of Ethics or the Charter. City Attorney Sullivan said that Mr. Sullivan's comments are well taken. City Attorney Sullivan stated if the City Council, School Board, Fire and Police Commissions would all agree, then the language could be added to the Code of Ethics. However, in this case he feels it would be appropriate to have this as a referendum question on the Municipal Election ballot.

Councilor Coviello spoke to the in-depth process followed by the City Charter Advisory Committee and the multiple public hearings which were held to receive public input. He indicated that 5 people attended the meetings for a City with a population of over 22,000. He also stated each item brought forward for review as a potential amendment was reviewed individually by the Committee.

**Motion passed.**

4. Acceptance of Sidewalk Easement Re: 125 Brewery Lane

City Manager Bohenko reported that Saco Ave Professional Building, Inc. is prepared to commence the redevelopment of the property located at 125 Brewery Lane. As a condition of approval, Saco Ave is required to convey a sidewalk easement to the City. City Manager Bohenko advised the City Council that the Public Works Department, Planning Director and Legal Department have reviewed and approved the easement document.

**Councilor Smith moved to authorize the City Manager to accept the sidewalk easement at 125 Brewery Lane from Saco Ave Professional Building Inc. Seconded by Councilor Lister and voted.**

5. Proposed Purchase of Conservation Land Re: Island in Sagamore Creek

City Manager Bohenko said a letter from Robert Thoresen representing David Linn owner of a small island in Sagamore Creek has been received. He indicated that Mr. Linn is offering the island to the City for \$25,000.00. The sale of the island was brought before the Conservation Commission and they were unclear as to the natural resource values of this island and did not have a dollar amount associated with the purchase. City Manager Bohenko spoke to the review done by the Conservation Commission and their unanimous agreement that the island should be added to the City's conservation inventory. The next step would be to refer this matter to the Planning Board for report back to the City Council.

**Councilor Kennedy moved to refer this matter to the Planning Board for report back. Seconded by Councilor Dwyer and voted.**

6. Request for a License from Joanne Wiren, owner of Art with a Splash for property located at 82 Fleet Street to install a projecting sign

City Manager Bohenko announced that Ms. Wiren has withdrawn her request to bring back at a future date.

7. Polling Hours for November 8, 2011 Municipal Election

City Manager Bohenko stated that City Clerk Barnaby is requesting that the polling hours for the November 8, 2011 Municipal Election be set from 8:00 a.m. to 7:00 p.m.

**Councilor Smith moved to set the polling hours from 8:00 a.m. to 7:00 p.m. for the Municipal Election on Tuesday, November 8, 2011. Seconded by Councilor Coviello and voted.**

8. Acceptance of Drainage Easements

City Manager Bohenko spoke to the drainage easements for this required property. He stated that the staff has reviewed the easements. In addition, the Public Works Department, the Planning Director and the Legal Department have approved the easement documents.

**Councilor Smith moved to authorize the City Manager to accept two drainage easements from Linda Harding over Lots 1 and 2 at 1808 Islington Street. Seconded by Councilor Dywer and voted.**

9. Retirement Rates

City Manager Bohenko announced that the NH Retirement System has re-certified the employee contribution rates pursuant to House Bill 2, effective August 1, 2011 through June 30, 2013. The additional cost over and above what has been budgeted for FY12 for each group is as follows:

|                 |              |
|-----------------|--------------|
| Police          | \$117,700.00 |
| Fire            | \$101,405.00 |
| Schools         | \$302,584.00 |
| Total Shortfall | \$521,689.00 |

City Manager Bohenko advised the City Council that the shortfall can be made up through a transfer of \$521,689.00 from the FY12 collective bargaining and pension contingency, in accordance with Section 7.16 of the City Charter, which allows for transfer with the approval of the City Council. Based on the foregoing, City Manager Bohenko recommended that the City Council place this matter on to its September 6, 2011 agenda for action.

Councilor Kennedy asked what other communities are doing to deal with the change.

The City Council agreed to place this matter on the City Council September 6<sup>th</sup> agenda for action.

10. Request to Expend \$860.00 in Funds from the Conservation Fund to conduct a Natural Resource Assessment of the Sanderson Property off Spinney Road (Tax Map Parcel 167/5)

City Manager Bohenko requested that Environmental Planner Britz review this matter with the City Council. Environmental Planner Britz reported that property owners of a large tract of land off Spinney and Middle Roads are considering a nine lot residential subdivision. It was requested that the City review this property for possible conservation acquisition. He stated the matter was referred to both the Planning Board and Conservation Commission. Upon their consideration at their July meetings of this area, both Boards have stated that they need additional information to further consider and make any recommendation to the City Council regarding this request. An estimate for a review of the Conservation Values has been provided by West Environmental in the amount of \$860.00. This review would include a site inspection, collection of natural resource information and photographs provided in a letter report of the findings. In closing, he stated that the Conservation Commission is recommending spending funds from the Conservation fund to further investigate this parcel.

**Councilor Kennedy moved to accept the Conservation Commission's recommendation to expend \$860.00 from the Conservation Fund to conduct a natural resource assessment of the Sanderson property. Seconded by Councilor Lister and voted.**

City Manager's Informational Items

2. *Municipal Election Filing Period*

City Clerk Barnaby announced that the Filing Period for the Municipal Election will begin on Monday, August 29, 2011 and ends on Monday, September 12, 2011.

**B. MAYOR FERRINI**

1. Appointment to be Considered:
  - Chris Hubbard – Appointment to the Peirce Island Committee
  - Dana Levenson – Appointment to the Board of Trustees of Trust Fund

The City Council considered the appointment of Chris Hubbard to the Peirce Island Committee and Dana Levenson to the Board of Trustees of Trust Fund and will vote on the appointments at the September 6, 2011 City Council meeting.

2. Resignations:
  - Donald Coker from the Planning Board
  - John Connors from the Traffic & Safety Committee

**Councilor Smith moved to accept with regret the resignations of Donald Coker from the Planning Board and John Connors from the Traffic & Safety Committee. Seconded by Councilor Kennedy and voted.**

Councilor Smith requested that a letter of thanks and appreciation be sent to both Mr. Coker and Mr. Connors for their years of service to the City.

**C. COUNCILOR LISTER**

1. \*USS Virginia Report

Councilor Lister reported on the many activities that have been held for the USS Virginia and expressed thanks to all those that have volunteered their time and services. He stated that the families are very thankful and appreciative to the outpouring of support by the City of Portsmouth. He advised the City Council that the USS Virginia would be departing in February 2012.

**XI. MISCELLANEOUS/UNFINISHED BUSINESS**

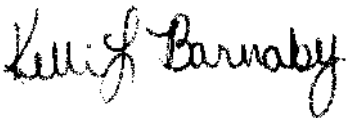
- Comcast Internet Essentials – Councilor Dwyer reported that Comcast is offering The Internet Essentials program for the 2011 “back to school” season where eligible families could purchase a pre-configured computer for \$149.99 (plus applicable taxes). She requested that this information be supplied to the Welfare Department as part of the back to school supplies drive in conjunction with the School Department.



- Review of Little Harbour School Pick-up and Drop-off Areas – Councilor Kennedy requested a letter be sent from Mayor Ferrini to Dr. Mitchell Shuldman, Chair of the School Board with a copy to Superintendent McDonough requesting a report back at the next City Council meeting regarding the above subject matter along with addressing the issue of idling vehicles that sit outside of homes at Little Harbour School when picking up or dropping off their children.

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

At 8:30 p.m., Councilor Kennedy moved to adjourn. Seconded by Councilor Smith and voted.



Kelli L. Barnaby, CMC/CNHMC  
City Clerk