

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: TUESDAY, JANUARY 18, 2011

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

At 6:00 p.m., a “Non-Meeting” with Council was held regarding Negotiations.

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

Mayor Ferrini called the meeting to order at 7:03 p.m.

II. ROLL CALL

Present: Mayor Ferrini, Assistant Mayor Novelline Clayburgh, Councilors Lister (8:00 p.m.), 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 Spear led the Pledge of Allegiance.

PRESENTATION

1. Comprehensive Annual Financial Report (CAFR) – Melanson, Heath & Company, P.C. Auditors’ Financial Report for the Year Ending June 20, 2010 (Annual Audit)

City Manager Bohenko announced that the presentation was postponed due to the representative from Melanson, Heath & Company being unavailable because of the weather. He stated the presentation would be rescheduled to the February 7, 2011 City Council meeting.

V. ACCEPTANCE OF MINUTES – JANUARY 3, 2011

Councilor Smith moved to accept the minutes of the January 3, 2011 City Council meeting. Seconded by Assistant Mayor Novelline Clayburgh and voted.

VI. PUBLIC COMMENT SESSION

Gerald Howe spoke to his letter of January 5, 2011 concerning FY11 Budget totals. He requested the City Council adjust the December 13, 2010 “Committee of the Whole” meeting budget figure to include the recently approved working agreement with the Ranking Officers’ Association. He stated this would adjust their FY11 figure from \$8,438,673.00 to \$8,523,252.00 and the future expenses associated with the new Ranking Officers’ agreement would be absorbed within out-lying budget cycles.

VII. PUBLIC HEARINGS

- A. RESOLUTION AUTHORIZING A BOND ISSUE OF UP TO THREE MILLION DOLLARS (\$3,000,000.00) FOR TREATMENT PLANT ENGINEERING AND EQUIPMENT PERFORMANCE TESTING AND LONG-TERM CONTROL PLAN IMPLEMENTATION

City Manager Bohenko handed out a memo with a copy of the EPA's letter concerning the proposed preliminary engineering and equipment testing at the Peirce Island Wastewater Treatment Facility. He stated the EPA recommended the City proceed with the pilot testing as expeditiously as possible.

City Manager Bohenko stated before we get into the presentation by David Allen, Deputy Public Works Director and Peter Rice, City Engineer, he would like to inform the Mayor and City Council that because of the inclement weather he would recommend that after the presentation is made and the public hearing is open that the Council move to continue the public hearing to February 7th so those that wish to come and speak on this issue can do so. Mayor Ferrini agreed with City Manager Bohenko. City Manager Bohenko stated he would like to continue with the presentation as they are prepared to present tonight.

David Allen, Deputy Public Works Director presented a PowerPoint presentation outlining the Wastewater Master Plan Implementation. He reviewed the phased compliance strategy for Peirce Island on Pease Tradeport listing the advantages of this revised compliance strategy. He concluded the presentation with an overview of the long term control plan for combined sewer overflow.

Councilor Coviello asked if the project at the Middle School was still a Combined Sewer Overflow (CSO). David Allen, Deputy Public Works Director stated we will still have CSO's there. He said the program is for targeted separation and this will help reduce the amount of flow, but CSOs still exist in that location. Councilor Kennedy asked how much more money we will need to continue the separation process. David Allen said we have that in the Capital Plan. He said we have \$14.5 million on the sewer project for the next 2.5 phases. Peter Rice said we have \$14 million on the sewer but there is water associated with that also. He stated it would be roughly \$14.5 million for the next 2.5 remaining phases. Assistant Mayor Novelline Clayburgh asked what other streets are involved. David Allen said this one is for Parrott Avenue. He stated we have the rest of that area and essentially the area between South Street and Middle Street, and we also have other work at the Cass Street level. Assistant Mayor Novelline Clayburgh stated it is all in the downtown areas and the outlying areas are not affected by this, correct. David Allen stated that is correct. Mayor Ferrini asked how many years it would take to finish this up. David Allen stated it would be over approximately the next five years or so.

Councilor Kennedy asked if there is any support money available. David Allen asked if she meant through grants or such. Councilor Kennedy stated she did. David Allen said at this point the State is not funding any State Aid Grant programs. He said there is talk about trying to do that, but given the budget issues it is not likely.

Councilor Kennedy stated she has an issue with putting water and sewer together. She said people need to know that we are looking at \$30 million for the compliance strategy at Peirce Island and Pease and another \$14 million for the sewer separation project, so we are looking at \$44 million. Assistant Mayor Novelline Clayburgh stated that these funds are in the CIP. City Manager Bohenko said that is correct.

Councilor Smith stated the long term goal is to move the storage plant off Peirce Island. He asked what happens to the equipment we are going to be spending this money on when we move the plant to Pease. He further asked if we can take this equipment to Pease or will it be used for storm water at Peirce Island. David Allen stated this project is a pilot test in engineering so this isn't going to be permanent equipment. He said after this test there would be a construction project to put the equipment within the filter building. He said that equipment would have a 20 year life and if and when we phase off Peirce Island we will probably still have storm water treatment there.

Councilor Smith asked what Plan B is if this doesn't work. David Allen stated they are confident it will work. He said it is just a matter of making the best decisions. He said we wouldn't be going forward with this if we didn't think it would work. He said this pilot will help us make the best decisions and get the best process out there with the least capital costs and the least operating costs. Councilor Smith asked if there are any other communities that use this type of system. David Allen stated there are.

Councilor Kennedy asked if the tank going out there would be on top or in the ground. David Allen stated it could be above ground, but would not extend above the existing buildings.

Mayor Ferrini declared the public hearing open and called for speakers. There were no speakers.

Councilor Spear moved to continue the Public Hearing until the February 7, 2011 meeting. Seconded by Councilor Kennedy and voted.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to the New Library Building Fund**
- Phyllis Eldridge - \$1,500.00 (*Fulfills Pledge*)

Councilor Smith moved to approve and accept the donation to the New Library Building Fund, as listed. Seconded by Assistant Mayor Novelline Clayburgh and voted.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Adoption of Proposed Bonding Resolution for up to \$3,000,000 for Treatment Plant Engineering and Equipment Performance Testing and Long-Term Control Plan Implementation**

Mayor Ferrini stated we would not be voting on this as previously indicated at this meeting. He asked someone to move to postpone this until the meeting of February 7th.

Councilor Smith moved to postpone the public hearing until the City Council meeting of February 7, 2011. Seconded by Councilor Kennedy and voted.

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Donations for Art-Speak Annual Appeal
- Meganne Fabrega - \$20.00
 - Sarah Haskell - \$20.00
 - Nicholas & Lea Aeschliman - \$25.00
 - Patricia Lynch - \$35.00
 - Vernis & Emerald Jackson - \$40.00
 - Douglas Roberts - \$50.00
 - Tom & Annabelle Cocchiaro - \$50.00
 - Robin Albert & Wayne Lehman - \$100.00
 - Dana & Shaula Levenson - \$100.00
 - M. Christine Dwyer - \$200.00
 - Valerie & Jonathan Sobel's Fidelity Charitable Gift Fund - \$200.00
- (Anticipated action – move to accept and approve the donations in the amount of \$840.00 to Art-Speak for operations, as presented)***
- B. Acceptance of Donations for USS Virginia
- Kevin & Roseann Clark - \$40.00
 - Sons of the American Legion SQD 6 - \$100.00
 - The American Legion Frank E. Booma Post No. 6 - \$100.00
- (Anticipated action – move to accept and approve the donations for the USS Virginia in the amount of \$240.00, as presented)***
- C. Letter from Donald Allison, Eastern States 20 Mile, requesting permission to hold the Eastern States 20 Mile Road Race on Sunday, March 27, 2011 ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from Kathy Beebe Keefe, Sexual Assault Support Services, requesting permission to hold the 4th Annual KidSAFE 5k Run/Walk on Pease International Tradeport on Saturday, April 16, 2011 ***(Anticipated action – move to refer to the City Manager with power)***
- E. Letter from The Reverend Calvin Sanborn, AIDS Response Seacoast, requesting permission to hold the 15th Annual Seacoast AIDS Walk and Dog Walk on Sunday, May 1, 2011 ***(Anticipated action – move to refer to the City Manager with power)***

- F. Letter from Barbara Massar, Pro Portsmouth, Inc., requesting permission to hold the following events in 2011:
- Children's Day, Sunday, May 1, 2011 – Noon to 4:00 p.m.
 - The 34th Annual Market Square Day Festival & 10k Road Race, Saturday, June 11, 2011
 - The 9th Annual Summer in the Street Music Series, Saturday evenings from 5:00 p.m. – 9:30 p.m. on June 25, 2011; July 2, 2011; July 9, 2011; July 16, 2011; July 23, 2011, and July 30, 2011 (rain date August 6, 2011)
- (Anticipated action – move to refer to the City Manager with power)***

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

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Gerald Howe, Chair, Board of Police Commissioners regarding FY11 Budget Total

Mayor Ferrini stated Police Commissioners Gerald Howe, John Russo and John Golumb as well as Deputy Chief Dubois were available to answer any questions that the Council may have.

Councilor Smith asked if we know how much would come out of the stabilization fund. City Manager Bohenko stated it would be the difference between the \$8,523,252.00 minus the \$8,438,673.

Mayor Ferrini asked Councilor Coviello to read, into the record, the letter in question. Councilor Coviello read the letter from Gerald Howe, Chairman, Police Commission dated January 5, 2011.

Councilor Smith moved to transfer \$84,549.00 from the fund that was set aside for negotiating contracts to the Police Department Budget. No second was received.

Councilor Spear stated this letter is asking for a budget target for FY12. He asked if they are asking for additional money for FY11. He stated he is unclear on this. City Manager Bohenko said the motion should be reframed to say – to establish a number of \$8,523,252 that would amend the November 30, 2010 budget guidelines that were sent out by the City Council. He said in the November 30, 2010 memorandum on budget guidelines the amount the Police Department was to come in with was \$8,438,673. He said what the Council would be doing is saying the new guideline is changed to \$8,523,252.

Councilor Smith moved to establish a new target amount for the Police Department of \$8,523,252 for the FY12 Budget. Seconded by Assistant Mayor Novelline Clayburgh.

Councilor Smith stated when working on contracts money was set aside for negotiations of these contracts. He said it seems to him that this is a fair request to move these funds over at this time. Councilor Dwyer stated this is what she is confused about. She asked the City Manager to clarify this. She said she knows money was set aside at the year we began negotiating the contracts and she believes a second amount was set aside in a subsequent year, but has lost track of where we are. Mayor Ferrini asked if we took any action at that time on those funds other than just establishing them. City Manager Bohenko stated this is not an appropriation for FY11. He said the City Council, through the budget process last year created an amount of money for collective bargaining that was transferred into the Police Department's budget after the approval of the contract. He said that amount was approximately \$8,400,000.00 to cover the cost of the contract. He said that is not the vote you are taking tonight. He said what we would be doing is making that transfer over as a result of the City Council approving the contract. He said the money was set aside in FY11 for that purpose. He said the \$8,438,673 will go into the Police Department's budget for FY11. He stated what will happen is their budget now, when the budget comes out we will have a FY11 budget of \$8,523,252. City Manager Bohenko stated the vote tonight is not to transfer the money in, the vote tonight is for the Police Department to have the ability to have a new cap.

Councilor Coviello stated he believes this letter is inappropriate. He said we are looking for a zero percent tax increase in the budget. He said we don't know what the County or State is going to do. He said we may have to adjust that down. He said the Police Department should submit their budget. He said we requested \$8.4 million roughly. He further stated if the Police Department wants to submit a budget for \$8.5 million with a reason why, that is up to them. City Manager Bohenko said if that's the case, he would not know what direction the Council wants to go. He said there was a specific requirement by the Council to put exact numbers in the budget so he would need guidance. Mayor Ferrini asked if City Manager Bohenko could have two different actions. He said this vote would effectively increase the cap and change that number. He said if this was to fail and another form of motion was filed, this would be a factor. He said tonight the decision is whether to effectively increase the cap as set forth in his memorandum of November 30, 2010 making these numbers solid. Councilor Coviello stated if we do this and the State and County does not come up with any increase and we kept all the other budgets where they are, we would, in effect, have a tax increase.

Councilor Hejtmanek stated during the conversations to approve the police contract, we asked the Police Department if they could maintain a zero budget and absorb this increase and he remembers they said they would. He said now they are saying they need more money to absorb the cost of this increase. He stated the old budget amount should still apply. Councilor Spear said he agrees with Councilor Hejtmanek and will vote no on this motion.

Mayor Ferrini passed the gavel to Assistant Mayor Novelline Clayburgh.

Mayor Ferrini stated he will not support this motion. He said he would have moved to place this letter on file. He said Councilors have pointed out that whatever action we take in the budget is going to have to take into consideration a variety of factors such as funds, revenues and the needs of the Department and he believes it is more prudent to avoid changing the numbers again.

Assistant Mayor Novelline Clayburgh returned the gavel to Mayor Ferrini.

Voted 8-0 on a roll call vote to reject the motion to establish a new target amount for the Police Department of \$8,523,252 for the FY 12 Budget. Councilor Lister was not present for the vote.

Councilor Coviello moved to place the letter on file. Seconded by Assistant Mayor Novelline Clayburgh and voted.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Elderly & Disabled Exemptions

City Manager Bohenko stated annually the City of Portsmouth reviews income and asset levels for both the Elderly and Disabled Exemptions pursuant to RSA 72:39-b and RSA 72:37-b and makes recommendations as to these levels. He stated last year, the City Council adopted Resolutions #2-2010 and #3-2010 which increased the income and asset levels for both the elderly and disabled exemptions by 1.82% from the previous year. He said the current elderly and disabled exemption income levels are \$33,182.00, for a single taxpayer, \$40,933.00, for married taxpayers, and an asset limit of \$110,611.00.

He said if qualified, for elderly taxpayers, the exemption off the assessed value of the property is as follows:

- Age 65 to 74 \$125,000
- Age 75-79 \$175,000
- Age 80 + \$225,000

He stated if qualified, for disabled taxpayers, the exemption off the assessed value of the property is \$100,000.00.

City Manager Bohenko said this year the November to November CPI of the Boston-Brockton-Nashua November consumer price index (CPI) is .64%. He stated he would recommend the City Council round this number up to 1% and propose a 1% increase. He said if the City Council wishes to adjust the income and asset levels for both the elderly and disabled taxpayers by the recommended 1%, this would increase the limits (rounded up) as follows:

- Single \$33,514 increase of \$332
- Married \$41,343 increase of \$410
- Asset Limit of \$111,718 increase of \$1,107

This adjustment would be for assessments as of April 1, 2011 for the 2011 tax year or FY12.

Councilor Dwyer moved to authorize the City Manager to bring back for first reading at the February 7, 2011 City Council meeting the proposed resolutions as presented. Seconded by Assistant Mayor Novelline Clayburgh.

Councilor Coviello asked why it was necessary to round the amount up to 1%. He asked why not leave it at .64%. City Manager Bohenko stated it is up to the Council. He rounded it up, but if the Council wants him to calculate it at .64%, he can do that. Mayor Ferrini requested the City Manager bring back for first reading calculated with the 1% and the .64% increase. City Manager Bohenko stated he will calculate it both ways. Councilor Kennedy stated she is in favor of leaving it at 1%. She asked if we could look at the trends that are out there for 70 and over and see what other communities are doing. She does not want people to lose their homes. City Manager Bohenko stated he could look at the trends. He said he would have to talk to the Assessor about changing the categories. He said the categories may be set by the State. He stated he would put together a survey of about 10 communities looking at the exemption amounts and the income amounts and provide this to the Council. He said he will come back with a Resolution that will encompass what is on the Resolution here, and provide a survey. He said if the Council wishes to amend the Resolution they can. He said he would also have a Resolution available for the exemption amounts.

Motion passed.

2. Funding Options for Proposed Youth Recreation Facility

City Manager Bohenko stated the City Council authorized the Joint Building Committee to develop preliminary designs for a proposed Youth Recreation Facility at the Middle School, which would replace the existing Connie Bean Center. He stated the new facility would be 9,500 square feet and would house the recreation programs that are now operating out of the Connie Bean Center. He said the preliminary rough estimate of the facility cost is \$2,300,000.00. He said by the end of January when bids are received a more precise estimate will be available. He stated if the City Council wanted to proceed with the proposed Youth Recreation Facility at the Middle School, he would recommend the following funding options:

1.	Use of bond premium from the bond sale of May 15, 2010	\$512,700.00
2.	Use of proceeds from the sale of Fire Station 2	\$550,000.00
3.	Savings from construction of new Fire Station 2	\$250,000.00
4.	\$1 Million to be bonded which would be paid through the lease of the Connie Bean Center (Minimum amount of lease would have to be in excess of \$75,000.00 per year for this to be self-sustaining)	\$1,000,000.00
	TOTAL	\$2,312,700.00

He said if the City Council were to proceed with the proposed Youth Recreation Facility at the Middle School, Items 1-3 would require a public hearing and a vote of the City Council which would need 2/3 majority. Item No. 4, the bonding would require a public hearing and two readings and a 2/3 majority vote. He said he would recommend that the City Council establish a work session with the Recreation Board and the Joint Building Committee to discuss the Youth Recreation Facility proposal and to receive more details on the project before any formal action is taken.

Mayor Ferrini scheduled a work session on Wednesday, February 9, 2011, at 6:30 p.m., in the Eileen Dondero Foley Council Chambers, with the Joint Building Committee and the Recreation Board.

3. Request for Approval of Pole License Agreements #63-0500 and #63-0504

City Manager Bohenko stated the Pole License Agreement #63-0500 is a request to license one pole located at the intersection of Rockland and Kent Streets. He said the new pole location was incorporated into the street improvements completed as part of the Sewer Separation Contract 2. He further stated PSNH has removed the old pole that was in the pavement on Rockland Street. He said this pole poses no impact to existing City infrastructure and the Public Works Department recommends approval of this license.

City Manager Bohenko stated the Pole License Agreement #63-0504 is a request to license one pole located on Middle Street that needs to be replaced. He stated PSNH could not find an existing license for a pole at this location and is requesting one at this time. He said this proposed pole poses no impact to existing City infrastructure. He further stated the Public Works Department recommends approval of this license.

Councilor Smith moved to approve the request from PSNH for pole license agreements, # 63-0500 and #63-0504, as recommended by the Public Works Department. Seconded by Assistant Mayor Novelline Clayburgh and voted.

Councilor Lister spoke to City Manager Bohenko's Informational Item #1 – Events Listing stating there is a get together on Friday, January 21st at the Redhook Brewery on Pease Tradeport for the crew of the USS Virginia. He said cocktails will be at 5:30 p.m. with dinner at 7:00 p.m.

Councilor Kennedy spoke to City Manager Bohenko's Informational Item #6 – Vision Appraisal and Employment Agreements Online and the requirement for Portsmouth residents to register prior to using the site. She stated none of the other surrounding areas have this requirement. She requested this be turned off.

Mayor Ferrini passed the gavel to Assistant Mayor Novelline Clayburgh.

Mayor Ferrini stated he would also like this requirement removed.

Assistant Mayor Novelline Clayburgh returned the gavel to Mayor Ferrini.

City Manager Bohenko stated he would remove the requirement.

B. MAYOR FERRINI

1. City Manager – PDA Reappointment

Mayor Ferrini proposed to reappoint City Manager John P. Bohenko to the Pease Development Authority for a 3-year term January 1, 2011 to expire January 1, 2014.

Assistant Mayor Novelline Clayburgh moved to reappoint City Manager John P. Bohenko to Pease Development Authority for a 3-year term January 1, 2011 to expire January 1, 2014. Seconded by Councilor Lister and voted.

2. Appointments to be Considered:

- Gary Lowe – Appointment to the Sustainable Practices Blue Ribbon Committee
- Everett Eaton – Reappointment to the Economic Development Commission
- Elias Abelson – Reappointment to the Board of Library Trustees
- Valerie Cunningham – Appointment to the Board of Library Trustees
- Kate Gill Kressley – Appointment to the Board of Library Trustees
- Derek Durbin – Appointment as Regular member to the Zoning Board of Adjustment

The City Council considered the above referenced appointments which will be voted on at the February 7, 2011 City Council meeting.

Mayor Ferrini reminded the Council that the questions regarding the Budget need to be to the City Manager by March 1, 2011.

Mayor Ferrini stated he completed the appointments for the Charter Committee and the following will serve on this board:

- Assistant Mayor Nancy Novelline Clayburgh as Chair
- Councilor Coviello
- Joshua Cyr
- John O’Leary
- Peter Loughlin

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Mayor Ferrini stated they met with the Legislative Delegation and were provided with the tracking of legislation important to Portsmouth. He stated they will continue to meet with the Delegation regularly. He said the Committee may need Councilors or Pat Remick, Coalition Coordinator, to testify at some of the hearings. Councilor Dwyer said there has been a great exchange between the Committee and the Legislative Delegation. She said people are very active, but because of the rules put into effect it is very difficult to track the laws. She said there is a practice now where the Committee does not have to give advance notice of a Public Hearing, they can simply go into an executive meeting and vote on it. She said this makes it very challenging for them to try to follow these bills. Councilor Spear commended Pat Remick for the great job she does tracking the bills.

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

Assistant Mayor Novelline Clayburgh moved to adjourn at 8:45 p.m. Seconded by Councilor Lister and voted.

Respectfully submitted:

Dianne M. Kirby
Deputy City Clerk I