

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, FEBRUARY 7, 2011

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

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

Mayor Ferrini called the meeting to order at 7:00 p.m. He explained that Councilor Dwyer will be participating via telephone and therefore, all votes will be taken by roll call.

II. ROLL CALL

Present: Mayor Ferrini, Assistant Mayor Novelline Clayburgh, Councilors Lister, Hejtmanek, Spear, Dwyer (via telephone), 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 30, 2010 (Annual Audit)

Scott McIntyre of Melanson, Heath & Company reviewed the City of Portsmouth Financial Report for the Year Ending June 30, 2010.

Mr. McIntyre stated that pages 19 and 20 are their opinion of the City's financial statements and everything else belongs to the City of Portsmouth. He stated that 2 things he wants to point out on that page are that the audit is conducted with 2 sets of audit standards and that their opinion of the City's financial statements are totally in accordance with generally accepted accounting principals for government entities in the United States of America. He continued to review various highlights of the report. He stated the first place most readers will turn to is page 42 the governmental funds balance sheet, first column of numbers, undesignated fund balance. He stated that number in accordance with some bench marks is virtually unchanged from the previous reporting period with an increase of approximately \$200,000. He stated that figure also represents less than 12% of the general fund expenditures which is a bench mark used by rating agencies. Finally, on page 42, balance sheet item, school renovations, is a new item this year, as \$15 million was issued in debt in FY10 but will be expended in FY2011 and after. Next, he discussed page 46, results of operation compared to budget, which shows an excess of revenue to expenditures of over \$2,975,000.00. He stated in the footnotes, it shows that in FY 2010 the City used almost \$2.7 million of existing fund balance to balance the operations in capital for the general fund budget. He explained that when you factor that in, there is net difference of approximately \$200,000 undesignated fund balance as previously mentioned. He concluded by touching upon page 45, reconciliation of long term

perspective versus short-term perspective including depreciation of \$4.4 million compared to repayment of debt at \$6.1 million which shows the City is paying off its debt faster than assets are depreciating which is a positive sign. Also on page 45, compensated assets, the number is going down which has been a goal of the city as well.

Councilor Kennedy asked if he sees any point where the American Recovery Investment Act Funds are going to change anything as they start going away. Mr. McIntyre stated that the relationship where the City is paying off its bonds payable at a rate that significantly exceeds the assets being depreciated and the City received a significant amount of stimulus funds in FY10, so those assets, i.e. the water and sewer facilities, that were funded with those grants, the depreciation expense on those assets will be incurred without bonds to repay the debt so the revenue will have to be raised to pay the debt, which could be seen as less favorable going forward. Councilor Kennedy stated at what point we will see the equalization. Mr. McIntyre stated he would have to do an analysis on bond payment schedules and when the depreciation expenses would begin to occur. Mr. Bohenko stated that we already have limited funds being made available for sewer and water so we won't have that issue.

Councilor Coviello asked if the \$2.7 million spent out of the general fund was out of parking expenses. Finance Director Judie Belanger explained that most of the undesignated fund balance in FY10 used was \$1,000,000.00 for collective bargaining. Also we used \$2.7 million a combination of reserves and undesignated fund balance. City Manager Bohenko explained that we have set aside money in a reserve from fund balance to smooth out the process and not have ups and downs.

Assistant Mayor Novelline Clayburgh asked if he had any suggestions for the School Lunch Program. Mr. McIntyre stated that their deficit has improved dramatically already and encourages them to continue to accomplish that in the upcoming year.

V. ACCEPTANCE OF MINUTES – JANUARY 18, 2011

Councilor Smith moved to accept the Minutes of the January 18, 2011 City Council meeting. Seconded by Assistant Mayor Novelline Clayburgh and voted on a 9-0 roll call.

VI. PUBLIC COMMENT SESSION

Rep. Rich DiPentima – spoke regarding fluoride stating that as a retired public health official he supports the recommendation of the DHHS to lower the fluoride amounts but urges the Council to consider the whole report which strongly recommends fluoridation as a safe and effective method of preventing dental decay.

Rick Horowitz – spoke regarding fluoride stating he agrees with lowering the fluoride level but continues to advocate removing it altogether. He cited several statistics from the CDC supporting his views against fluoridation.

Roland Cote – spoke regarding the parking problems on Union Street stating that every winter it is impossible for emergency vehicles to get down his road because the street is narrow and there are cars parked along both sides of the street. He stated that the DPW does a great job plowing but feels that parking on one side of the street should be eliminated especially in the

winter. He stated he will be attending the next Parking Committee meeting.

Councilor Smith stated they will be discussing this issue at the Traffic and Safety Committee meeting and urged people to come and speak.

VII. PUBLIC HEARING

- 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 (*Continued from the January 18, 2011 City Council meeting*)

Mayor Ferrini explained that this public hearing remains open as it is being continued from the January 18, 2011 City Council meeting due to the weather that evening.

There being no one wishing to speak, the Mayor closed the public hearing.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. National Association of County and City Health Officials (NACCHO) Grant

Councilor Smith moved to authorize the City Manager to apply for, accept and expend a \$5,000.00 grant from the National Association of County and City Health Officials to sustain current efforts and further develop the Greater Portsmouth Medical Reserve Corps Unit. Seconded by Councilor Lister and voted on a 9-0 roll call.

- B. Acceptance of Grant to the Portsmouth Police Department from the Department of Justice – Violence Against Women Act (VAWA) to fund our Victim/Witness Advocate Position - \$41,339.00

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

Councilor Spear stated he remembers during the budget discussion last year that this position was eliminated. City Manager Bohenko explained that it was funded through a grant last year and this grant continues the funding at 100% with benefits to be funded through additional grant funding.

Motion voted on a 9-0 roll call.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Elderly Real Estate Tax Exemption:

Option A (1%)

Single	\$33,514.00 increase of \$332.00
Married	\$41,343.00 increase of \$410.00
Asset Limit of	\$111,718.00 increase of \$1,107.00

Option B (.64%)

Single	\$33,395.00 increase of \$213.00
Married	\$41,195.00 increase of \$262.00
Asset Limit of	\$111,319.00 increase of \$708.00

Councilor Smith moved to pass first reading and hold a public hearing and adoption at the February 22, 2011 City Council meeting the proposed Resolution for Option A as presented. Seconded by Councilor Spear.

Councilor Kennedy stated when she looks at the abatement paperwork there is a line item asking for cause of disability or hardship and wonders what effect that has on the abatement.

City Assessor Rosann Lentz explained that this is there for people who don't qualify for an exemption but can show extenuating circumstances when applying for an abatement.

Councilor Coviello stated he supports Option A even though he originally suggested keeping it at the .64%. He stated that we have a finite pool of money and by taking the burden off the elderly and disabled, it shifts it to the rest of the taxpayers and he just wants people to be aware of that.

Councilor Smith stated he supports rounding it up to 1% because people on Social Security have not received a raise this year.

Assistant Mayor Novelline Clayburgh stated she is opposed to this because she feels that the .64% is the CPI level and feels we should be consistent.

Motion passed on a roll call vote of 7-2. Assistant Mayor Novelline Clayburgh and Councilor Spear voted opposed.

- B. First reading of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Disabled Real Estate Tax Exemption:

Option A (1%)

Single	\$33,514.00 increase of \$332.00
Married	\$41,343.00 increase of \$410.00
Asset Limit of	\$111,718.00 increase of \$1,107.00

Option B (.64%)

Single	\$33,395.00 increase of \$213.00
Married	\$41,195.00 increase of \$262.00
Asset Limit of	\$111,319.00 increase of \$708.00

Assistant Mayor Novelline Clayburgh moved to pass first reading and hold a public hearing and adoption at the February 22, 2011 City Council meeting the proposed Resolution for Option A as presented. Seconded by Councilor Spear and voted on a 9-0 roll call.

- C. First reading of Ordinance amending Zoning Ordinance, Article 7, Section 10.730 – Gateway Development, Subsection 10.735 – Sustainability Standards

Councilor Lister moved to accept the recommendation of the Planning Board and pass first reading and schedule a public hearing and second reading of the proposed Zoning Ordinance, as presented, at the February 22, 2011 City Council meeting. Seconded by Councilor Hejtmanek and voted on a 9-0 roll call.

- D. Adoption of Proposed Bonding Resolution for up to \$3,000,000.00 for Treatment Plant Engineering and Equipment Performance Testing and Long-Term Control Plan Implementation

Councilor Coviello moved to adopt a proposed Bonding Resolution for up to \$3,000,000.00 for treatment plant engineering and equipment performance testing and Long-Term Control Plan Implementation, as presented. Seconded by Assistant Mayor Novelline Clayburgh and voted on a 9-0 roll call.

X. CONSENT AGENDA

- A. Acceptance of Donations for Art-Speak Annual Appeal

- Liz Wright & Scott Segee - \$25.00
- Anthony & Cheryl Coviello - \$50.00
- G. Willikers! Toy Shop - \$50.00

(Anticipated action – move to accept and approve the donations to Art-Speak for operations, as presented)

- B. Acceptance of Donations for USS Virginia

- J.D. Johnson - \$20.00
- Amanda Toscano (cash) - \$20.00
- Carol Zink-Mailloux - \$80.00
- Boynton, Waldron, Doleac, Woodman and Scott, P.A. - \$100.00
- Kathleen & David Brown - \$100.00
- Kevin & Roseann Clark - \$160.00
- Northrop Grumman/AMSEC - \$200.00
- American Legion(Kathie Lynch/Bob Andelman, Austin Nickerson, Catherine and James Pope - \$225.00

- Orbis, Inc. - \$300.00
 - American Legion (Tom Decker contribution) - \$1,000.00
- (Anticipated action – move to accept and approve the donations for the USS Virginia, as presented)***

- C. Letter from Jeanine Sylvester, Runner's Alley, LLC, requesting permission to hold the 14th Annual Runner's Alley/Redhook Brewery Memorial 5k on Sunday, May 29, 2011 at 11:00 a.m. ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from Penny Gant, Chairman of 2011 Fairy House Tour, requesting permission to hold the annual Fairy House Tour on Saturday, September 17, 2011 and Sunday, September 18, 2011 from noon to 4:00 p.m. ***(Anticipated action – move to refer to the City Manager with power)***

Councilor Smith moved to adopt the Consent Agenda as presented. Seconded by Councilor Lister and voted on a 9-0 roll call.

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Amy Pettengill, The National Eating Disorders Association, requesting permission to hold the 1st Annual Eating Disorder Awareness Walk on Sunday, June 26, 2011 at 11:00 a.m.

Assistant Mayor Novelline Clayburgh moved to refer to the City Manager with power. Seconded by Councilor Lister and voted on a 9-0 roll call.

- B. Letter from Tom and Zelita Morgan regarding Proposed Youth Recreation Facility *(Please see attached memorandum from staff regarding this matter)*

Councilor Spear moved to accept and place on file and to have copies distributed to all attendees at the February 9, 2011 Joint Work Session regarding the proposed Youth Recreation Center. Seconded by Assistant Mayor Novelline Clayburgh.

Mayor Ferrini clarified that when an item is accepted and placed on file no further action is taken, unless further direction is given by Council vote as in this case.

Motion voted on a 9-0 roll call.

- C. Letter from Arlon A. Chaffee, LOCO Sports Inc, requesting permission to hold a 5k Road Race at Pease on Monday, July 4, 2011 at 8:00 a.m.

Councilor Kennedy moved to refer to the Pease Development Authority. Seconded by Councilor Lister and voted on a 9-0 roll call.

- D. Letter from Bill Hess requesting a boundary line adjustment for his property located at 54 Rogers Street

Councilor Coviello moved to refer to the City Attorney for report back. Seconded by Councilor Spear and voted on a 9-0 roll call.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action

1. Fact Finder's Report Re: AFSCME, Local 1386 School Custodial Unit and The Portsmouth School Board

Councilor Coviello moved to reject the Fact Finder's Report Re: AFSCME, Local 1386 School Custodian Unit and the Portsmouth School Board. Seconded by Councilor Lister and voted on a 9-0 roll call.

2. Request to Renew Seacoast Growers' Association (Farmers' Market) Proposed 2011 License Agreement

Councilor Kennedy moved to authorize the City Manager to enter into a License Agreement with the Seacoast Grower's Association for 2011, as presented with the stipulation that they continue to look for potential alternative sites to hold the event in the future. Seconded by Councilor Hejtmanek.

City Manager Bohenko stated regarding the petition they received, 6 people that signed it have since said they wanted their names removed from the petition and that the majority of the residents want the market held there as well as the PHA. He stated we have moved this twice already and feels that this site has worked well but he is willing to keep looking or perhaps we should do a survey of the people who attend the market.

Councilor Kennedy amended her motion to change the stipulation to conduct a survey of the attendees. Councilor Hejtmanek agreed to second the amended motion.

Councilor Lister stated he feels we should still address the noise issue for those people who are concerned.

Motion voted on a 9-0 roll call.

3. Request to Renew Lease Agreement for Sons of Italy

Councilor Coviello moved to extend the Lease Agreement with the Sons of Italy at One Plains Avenue, for a period of one year from April 1, 2011 through March 31, 2012. Seconded by Councilor Smith.

City Attorney Sullivan explained that there is a date that needs to be changed on the agreement from 06/20/2010 to 06/20/2011.

Mayor Ferrini stated he is an honorary member of the Sons of Italy but does not feel he needs to abstain from the vote.

Motion voted on a 9-0 roll call (to include amending the typo on the agreement).

4. Request to Renew Lease of 251 Bartlett Street by the Creek Athletic Club

Councilor Coviello moved to suspend the rules to allow a speaker to address the Council on this issue. Seconded by Councilor Smith and voted on a 9-0 roll call.

Alec McEachern of the Creek Athletic Club explained the history of the CAC usage of the building and stated that the building is old and in need of repairs. He continued that they are willing to put in the work and the money for the repairs but are looking for a longer commitment from the city for their use of the building. He stated they have a 10 year schedule for making the improvements but can adjust it accordingly if they get a shorter term agreement.

Assistant Mayor Novelline Clayburgh asked how they will raise the money and are they confident they can raise it. Mr. McEachern stated that it will come from the membership dues, golf tournaments, raffles, etc.

Councilor Coviello asked how many members there are. Mr. McEachern stated 40-60 members who either live in the area or have lived there in the past.

Councilor Lister asked if we carry insurance on the property. City Manager Bohenko replied that we carry insurance on all city buildings.

Councilor Coviello stated he feels that this used to be a case of people wondering who it was using that building to the CAC now being active members of the community.

Councilor Smith moved to authorize the City Manager to bring this matter back for a formal vote at the February 22, 2011 City Council meeting. Seconded by Councilor Coviello.

Councilor Spear clarified that these repairs will be made in lieu of lease payment. City Manager Bohenko replied yes. Councilor Spear asked about Item 3 which states that the agreement can be terminated by the Club but not by the City. City Attorney Sullivan stated it can be terminated by the City and that the Club has to adhere to the outlined schedule.

Assistant Mayor Novelline Clayburgh stated if the CAC didn't make these repairs we would have to do it anyway so this helps us out. Councilor Coviello stated just to be clear, we could divest ourselves of the property but he is not in favor of doing that.

Motion voted on a 9-0 roll call.

5. Letter from Portsmouth Housing Authority Regarding Wasemit Place

Councilor Smith moved to suspend the rules to allow a speaker to address the Council on this issue. Seconded by Councilor Coviello and voted on a 9-0 roll call.

Joe Couture, Portsmouth Housing Authority Director, explained that they were going to use energy funding from the State but we do not qualify because we received money back in 2006. He introduced Bill Shanahan a consultant from New England Housing Fund.

Councilor Smith moved to refer the matter to the CDBG Citizens Advisory Committee for a report back. Seconded by Councilor Lister.

Councilor Coviello asked if the timing of this referral works for the PHA. Mr. Couture stated yes, they are meeting with the CDGB this Thursday and are looking to close on March 23rd.

Motion voted on a 9-0 roll call.

6. Request for a License from The Friends of the Music Hall, owner of The Music Hall Loft, for property located at 131 Congress Street to install a projecting sign

Councilor Smith moved to accept the recommendation of the Planning Board with the aforementioned stipulations and approve the request of Friends of the Music Hall, owner of The Music Loft, to install a projecting sign on a new bracket at 131 Congress Street and further authorize the City Manager to execute a License Agreement for this request. Seconded by Assistant Mayor Novelline Clayburgh and voted on an 8-0 roll call. Councilor Coviello abstained.

Stipulations:

- 1) *The license shall be approved by the Legal Department as to content and form;*
- 2) *Any removal or relocation of the projecting sign, for any reason, will be done at no cost to the City; and*
- 3) *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.*

7. Department of Health and Human Services proposed recommendation for adjusting Fluoride Levels

Assistant Mayor Novelline Clayburgh moved to accept the Department of Health and Human Services recommendation for adjusting fluoride levels. Seconded by Councilor Kennedy.

Councilor Hejtmanek asked for clarification on the terminology of .7 milligrams per liter versus per million. Deputy Public Works Director Allen stated they both equate to parts per million.

Assistant Mayor Novelline Clayburgh asked if this affects the other communities.

Councilor Kennedy asked if the other communities agreed to this. City Manager Bohenko explained that we adjust other chemicals as needed per standard operating procedure and the other communities are our customers.

Councilor Lister stated he still feels it is important for the city to inform those communities of the change. City Manager Bohenko stated the water department will send letters.

Councilor Smith asked if there will be a savings. Deputy Public Works Director Allen stated there will be an approximate 30% reduction and the annual cost is around \$30,000.00 so there will be some savings.

Councilor Kennedy asked how we will let Portsmouth residents know this is happening. Deputy Public Works Director Allen stated it will be a part of the annual water quality report being sent out in the near future.

Assistant Mayor Novelline Clayburgh stated that when this was originally put into the water system there weren't as many items with fluoride as there is now. Mr. Allen concurred.

Motion voted on a 9-0 roll call.

Informational Items

1. Events Listing
2. African Burying Ground Donations
 - Carmen & Gregory Pollack - \$25.00
 - Lorraine Eastwick - \$25.00
 - John & Carol Clark - \$50.00
 - Portsmouth Black Heritage Trail - \$50.00
 - Rodney & Lee Roberts - \$50.00
 - Jack & Diane Chambers - \$100.00
 - Ralph & Linda DiBernardo - \$100.00
 - Great East Festival, William Elwell - \$100.00
 - Paul Kent - \$100.00
 - Sarah Kruger Sulloway - \$100.00
 - James Loring Law Office - \$250.00
 - Charles Meade - \$250.00
 - Bosen & Springer, PLLC - \$500.00
 - Jane James - \$500.00
3. Reminder Re: Joint Work Session with Joint Building Committee and Recreation Board

B. MAYOR FERRINI

Mayor Ferrini first reminded the Council to get their budget questions in by March 1st. Councilor Kennedy stated she submitted questions back in November and assumes those will be included.

1. Appointments to be Voted

- 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

Councilor Smith moved to approve the appointments, as presented. Seconded by Assistant Mayor Novelline Clayburgh and voted on a 9-0 roll call.

C. COUNCILOR KENNEDY

1. *Assessments (e.g., neighborhoods and land values)
(Reference on these items can be found in Assessment Manual 1 on city website)

Councilor Kennedy explained that she and her neighbors have had a difficult time understanding how to come up with information in the manuals on only their own neighborhood. She gave some examples of the Assessor's maps and how they are not clear as to what makes a neighborhood and how some of the areas relate to each other on the maps. Secondly, she stated she feels that people are comfortable with the assessments of their houses because it is concrete information and based on State/Federal guidelines. She continued that it is the land values that are the issue because there are no concrete guidelines and no way to verify the figures assessed. She stated she wants answers to that question. City Manager Bohenko stated he will provide a memo back to the Council and answer the best they can.

2. *County Budget

Councilor Kennedy stated she appreciates the Mayor going with her and others to speak at the County Budget Public Hearing stating that she is concerned with the oversight of that budget. She stated she was also concerned with a comment made that it is cheaper to house our inmates at another county facility and she feels it is time for us to ask our local city officials to take more of an active role to oversee the budget as there are no checks and balances.

Mayor Ferrini stated that our legislature says that it is what is it and feels that we need to look at the political options.

City Manager Bohenko explained the structure of the Board of Commissioners stating that they submit the budget and the legislators sit as the body and vote on it. He stated he suggests that we keep working with the legislative sub-committee as much as we can as they are the ones who take the vote. He stated this is not a unique situation in New Hampshire regarding municipalities being concerned with county government and Portsmouth is the highest paying in Rockingham County because of our assessed values so we will continue to watch.

Councilor Kennedy stated she is also concerned that a Commissioner indicated that something can be put back into the budget later and wonders if we can make sure the legislature lets us know if that happens. City Manager Bohenko stated we need to continue to have a presence at the meetings.

D. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the January 13, 2011 meeting

Councilor Smith moved to accept and place on file the Traffic and Safety Committee Action Sheet and Minutes of the January 13, 2011 meeting. Seconded by Assistant Mayor Novelline Clayburgh.

Councilor Coviello stated that he wanted to thank the Hislop ball field expansion for their contribution of \$60,000.00. Councilor Smith stated the parking for that area will be discussed at the next parking meeting.

Motion voted on an 8-1 roll call. Councilor Kennedy voted opposed.

2. Parking Committee Action Sheet and Minutes of the January 13, 2011 meeting

Councilor Smith moved to accept and place on file the Parking Committee Action Sheet and Minutes of the January 13, 2011 meeting. Seconded by Councilor Coviello and voted on an 8-1 roll call. Councilor Kennedy voted opposed.

3. Ban on Synthetic Marijuana

Councilor Smith moved to request the City Attorney to come back with an ordinance proposal banning synthetic marijuana. Seconded by Councilor Coviello.

Councilor Smith explained that this is now in the City of Portsmouth and feels we need to regulate it as soon as possible.

Mayor Ferrini asked if there is any pending legislature at the State level. City Attorney Sullivan stated he is not aware of any. Councilor Smith stated there will be in the future, but not yet.

Motion voted on an 8-1 roll call vote, Councilor Spear voted opposed.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

Assistant Mayor Novelline Clayburgh moved to adjourn at 8:35 p.m. Seconded by Councilor Lister and voted on a 9-0 roll call.

Respectfully submitted:
Valerie A. French, Deputy City Clerk I