

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, MAY 2, 2011

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

At 6:30 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]

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

II. ROLL CALL

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

III. INVOCATION

Assistant Mayor Novelline Clayburgh asked everyone to join in a moment of silent prayer in memory of Jeffrey Bohenko, City Manager John Bohenko's brother who recently passed away.

IV. PLEDGE OF ALLEGIANCE

Assistant Mayor Novelline Clayburgh led the Pledge of Allegiance.

PROCLAMATIONS

1. Bike/Walk to Work Day in Portsmouth

Councilor Spear read the Proclamation declaring May 20, 2011 as Bike/Walk to Work Day in Portsmouth.

2. Police Week in Portsmouth – Peace Officers' Memorial Day

Councilor Smith read the Proclamation declaring May 15, 2011 – May 21, 2011 as Police Week in Portsmouth and May 15th as Peace Officer's Memorial Day. Mayor Ferrini presented the Proclamation to Police Commissioner Howe and Police Chief Ferland. Commissioner Howe and Police Chief Ferland accepted the proclamation with thanks and appreciation.

V. ACCEPTANCE OF MINUTES – APRIL 11, 2011 & APRIL 18, 2011

Councilor Dwyer moved to accept and approve the minutes of the April 11, 2011 City Council meeting. Seconded by Councilor Lister and voted.

Councilor Kennedy moved to accept and approve the minutes of the April 18, 2011 City Council meeting. Seconded by Councilor Coviello and voted.

VI. PUBLIC COMMENT SESSION

Richard Smith spoke opposed to Sunday parking enforcement being created. He said that it is the only day that employees, residents and visitors are able to park free. He also stated that residents cannot afford any further increases.

Jim Noucas & John Tabor, Portsmouth Listens, presented the City Council with the Portsmouth Listens report regarding the budget. The process was discussed and Mr. Noucas and Mr. Tabor thanked City Manager Bohenko and the Department Heads that attended the meetings of Portsmouth Listens. In addition, Mr. Noucas and Mr. Tabor announced that Portsmouth Listens will present their report to the public on Wednesday, May 4, 2011 at 7:00 p.m. at the library.

Carol Chellman, School Board member, stated that she was presenting a letter from Mitchell Shuldman, School Board Chair regarding the traffic modifications at Little Harbour School. She informed the City Council that the School Board is respectfully requesting that further review of this issue be granted by the Council and suggested referring the matter back to Traffic & Safety and/or City staff to achieve a mutually agreeable resolution to this matter.

Jerry Howe spoke to the value of the Portsmouth Explorer Cadet program and urged the Council to accept the donation this evening made by him and his wife. He also addressed the cuts made by the State and Federal Governments to this program and encouraged others to make a donation to support this important program.

Jim Ritzo said that there were no problems with parking and travel before the School Board made the changes at Little Harbour School. He said that the Traffic & Safety Committee represented the issue well and that the School Board is not as knowledgeable with parking and travel patterns.

Bill St. Laurent spoke opposed to the creation of Sunday parking enforcement and said it should remain free. He also spoke in opposition to the ordinance regarding the creation of variable parking rates.

Doug Bates, Chamber of Commerce President, said there is miscommunication between the City Council and the Chamber of Commerce regarding the Sunday parking enforcement and variable parking rates ordinances. He requested that the City Council allow further review of the ordinances by the downtown businesses before it is adopted.

Bob Hassold said residents feel that the City Council listens to people that speak during the Public Comment Session and Public Hearings however, it appears that the Council has already made a decision relative to the issue. He stated that the parking meter enforcement hours should be rolled back to 6:00 p.m. and that individuals be allowed one parking ticket free. Mr. Hassold expressed his opposition to parking enforcement on Sundays as well as the variable parking rates ordinance.

Barbara Ward, representing the Moffat Ladd House, spoke opposed to the Sunday parking enforcement ordinance and said that the City is becoming unfriendly to its visitors, businesses and residents. She also expressed her opposition to the variable parking rate ordinance and feels it is confusing. In addition, she suggested that there be more signage for the Pay and Display parking meter system for the public.

VII. PUBLIC HEARING

- A. RESOLUTION AUTHORIZING A BOND ISSUE OF UP TO TWELVE MILLION DOLLARS (\$12,000,000.00) FOR THE CONSTRUCTION OF A NEW PARKING FACILITY

Public Works Director Parkinson provided background information regarding the Worth Lot Parking Garage. He stated that a Feasibility Study was done in 2003 by the Consultant team of Hoyle, Tanner & Associates, Inc., Walker Parking Consultants and DeStefano Architects. He reviewed the three garage schemes as follows:

Garage Scheme A-1

- Maximum Permissible Build Out for Parking
- 5 Levels
- One Way Double Thread Traffic Pattern
- 440 (+/-) Spaces
- 330 Spaces net Gain

Garage Scheme A-2

- Mixed use of Parking and Development
- 4 Levels, 5th Level for Development
- One Way Double Thread Traffic Pattern
- 320 (+/-) Spaces
- 210 Spaces net Gain

Garage Scheme A-3

- Mixed use of Parking and Development
- Retail Space 1st Level Along Vaughan Mall
- 5 Levels
- One Way Double Thread Traffic Pattern
- 375 (+/-) Spaces
- 265 Spaces net Gain

Public Works Director Parkinson also reviewed the Concept Plan.

Scheme A-1

- 112' x 280'
- Trapezoid shape;
one-way double thread
- 440± spaces
(330 spaces net gain)
- 5 levels
- 10' off Congress St. building
- Fire wall on Hanover St. side
- Pedestrian connections to the
Shaines McEachern Building
and Worth Block

Further discussion was held outlining the preliminary timeline as follows:

- Request for Proposals – 2 Months
- Update Study – 2 Months
- Schematic Design – 4 Months
- Permitting – 6 Months
- Design Development – 5 Months
- Final Design – 3 Months
- Bidding & Construction – 16 Months
- Total Time for Project Completion: 2.5 Years
- Estimated Cost - \$12,000,000.00

City Controller Purgiel reviewed the Pro Forma's for the Worth Lot Parking Facility as follows:

Assumptions

- Spaces 440
- Cost per Space to Build \$27,273.00
- Total Cost \$12,000,000.00
- Bond Years 20
- Interest rate 4.00%
- Operating Cost Per Space \$275
- Increase hourly rate in Garage to \$1.00 per hour

Revenues

- Use of Reserves (first year only)
- Rate Payers
 - 440 spaces, 365 days, 12 hrs, \$1.00 per hour, 74% capacity
 - FY 14 rate payer revenue for 5 months (Feb-Jun)
- Loss of existing revenue
 - \$161,700.00 per year in meter revenue
 - \$65,000.00 per year in violation revenue

Net Income

- The pro forma projects a positive cash flow each year
- The aggregate 20 year projection:
 - \$4 million positive cash flow

- FY 2013 (Fiscal Year before garage opening) projecting loss of revenue of \$113,350.00 during construction
- Use of Reserve in FY 2013 to be used to offset loss of revenue

Mayor Ferrini read the legal notice, declared the Public Hearing open and called for speakers.

Susan Denenberg said that her office is adjacent to the garage and she parks her vehicle there. She stated that she pays \$80.00 per month for her pass and does not see a need for an additional parking garage at this time. She expressed concern with creating an additional parking facility and urged the City Council to look at the big picture. Ms. Denenberg urged the City Council to oppose the Resolution.

Sumner Winebaum, York, Maine but owns property in Portsmouth. Mr. Winebaum spoke against the building of a new parking garage. He reviewed the history of the area with the City Council. He further stated that the building is an unwelcome look to the area and asked the City Council to consider the big picture and not just the dollars.

Barbara Ward said she agrees with both of the previous speakers and their points. She expressed concern with the large amount of money this will cost and the residents are also concerned with the amount of debt the City is creating. Ms. Ward stated if the facility is to be built she would prefer a lower building.

Harold Whitehouse said the parking issue is a concern to him. He spoke to what took place several years ago when this garage was being proposed and stated that you would be shoe horning a parking garage into a smaller space. He outlined areas of concern as follows: lack of lighting in the area, the EPA questioning the air quality if a 5 level facility is built, traffic patterns of the new facility, sight distance is not adequate for the DOT, and the issue of a possible archaeology dig of the area before construction begins. Mr. Whitehouse said an open tier garage would cost a third of the \$12,000,000.00 for a 5 level facility.

Sam Winebaum, Rye, NH but owns property in Portsmouth. Mr. Winebaum said a 5 level facility would block the light and create a dangerous area in the evening. He suggested opening up the area to make it more pedestrian friendly. He stated there needs to be consideration of handicap spaces, delivery areas and fire access.

Carole Jule said she has a retail store in the Vaughan Mall and the parking lot does not require a parking garage. She stated the City Council has to consider what will be given up due to budget issues and that there are more important services other than parking. Ms. Jule also addressed the impact the construction would have on the existing businesses in the area while the facility is being built.

Chuck Woodsome stated that he is a business owner at 29 Vaughan Mall and expressed concern with the elderly being able to access the area during the construction phase. He further stated that he has not had a problem parking in the area in the last 33 years. Mr. Woodsome said if the facility is built it will cause businesses to leave the area.

Elie Taylor said she does not feel there is a need for a new parking facility. She urged the City Council to consider the impact construction would have on the businesses.

Bill St. Laurent said he agrees with the comments made by Mr. Whitehouse. He feels the City Council should look at the Bridge Street Lot for a new parking facility and not the Worth Lot. He further stated that residents cannot afford another expense. Mr. St. Laurent also stated if this is not going to cost the taxpayers anything that needs to be clarified that no funds will come from the general fund.

With no further speakers, Mayor Ferrini declared the Public Hearing closed.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation from Gerald W. Howe and Jocelyn Frechette in support of the Portsmouth Explorer Post - \$1,000.00

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

- B. Acceptance of Grant from NH Highway Safety for “Operation Safe Commute” to the Portsmouth Police Department - \$2,062.50

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

- C. Acceptance of Grant from NH Highway Safety for “Join the NH Clique” seatbelt campaign to the Portsmouth Police Department - \$4,125.00

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

Councilor Lister thanked the Police Department for seeking additional grants for additional funding for the department.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Proposed Ordinance Amending Chapter 10, Article 4, Section 10.420 – (District Location and Boundaries) Rezoning of Land at 54 Rogers Street from Municipal (M) to Mixed Residence Office (MRO) - and Zoning Map referenced in Chapter 10

Councilor Smith moved to pass first reading and schedule a public hearing and second reading on the proposed Ordinance, as presented, at the May 16, 2011 City Council meeting. Seconded by Assistant Mayor Novelline Clayburgh and voted.

- B. Adoption of a Resolution Authorizing a Bond Issue of up to Twelve Million Dollars (\$12,000,000.00) for the Construction of a new Parking Facility (*Two-thirds vote required for adoption*)

Councilor Spear moved to adopt the proposed Bonding Resolution, as presented. Seconded by Councilor Coviello.

Councilor Kennedy asked what the projected retail rent will be, what potential air quality issues could arise and how does the EPA play in that, what sight distance issues are there, the concerns with the travel patterns and what the community will pay for the facility.

Public Works Director Parkinson informed Councilor Kennedy that they have not looked at the retail component of the construction. He said 60 spaces would be lost and an increase will be made for the cost of the remaining spaces.

Deputy City Manager Hayden said it is important to remember that the plans are conceptual right now.

Councilor Kennedy said she agrees with the comments made by the public this evening. She stated we can't vote on the garage until we have a plan of what the garage may be. Deputy City Manager Hayden said what is before the City Council is granting the authority for funding. She indicated the Council doesn't vote to go through a great deal of money for architecture without the authorization for funding.

Councilor Kennedy asked if air quality has been evaluated. Public Works Director Parkinson said he does not remember that issue coming forward 10 years ago. The current garage does not create air quality issues. He said that matter will be reviewed.

Councilor Kennedy asked what it will cost the residents. Controller Purgiel said the pro-forma shows \$4,000,000.00. He further stated that there is a use of reserves from the parking reserve funds and it doesn't impact the taxpayer.

Councilor Lister stated that Deputy City Manager Hayden explained the process, this is to discuss the authorization of funds and not the design of the facility. He asked if the 5 levels would come up to the top of the Whaling Wall. Public Works Director Parkinson said more design would be needed to know where the building would end up in terms of height.

Councilor Spear asked why we need to build a new garage when the existing garage does not get filled. He asked how many times the High Hanover Garage was full in 2010. Parking and Transportation Manager Frederick responded that the garage was full 53 times in 2010.

Deputy City Manager Hayden spoke to the Parking Focus Group and their work a year ago showed a deficit in parking spaces in the downtown without the figures from Portwalk coming on line. She indicated that it is important for us to plan ahead and stated that the Planning Board and Economic Development Commission concurred with the findings of the Parking Focus Group that there is a deficit of hundreds of spaces in the downtown.

Councilor Dwyer spoke to the letter the Council received from the Economic Development Commission in support of the Resolution. She said the vitality of the downtown needs to include higher wage workers and the Economic Development Commission wants to attract the 10 to 15 person offices in the downtown. She also stated that there are many design issues that will be discussed and reviewed.

Mayor Ferrini said 10 years ago there was not a will of the community to move forward and design the facility that is why it remains at stage 1.

Assistant Mayor Novelline Clayburgh said she is in favor of the garage and serves as the City Representative to the Chamber of Commerce and as a member of the Economic Development Commission. She said that the businesses say there is a need for another parking facility downtown. The issues brought forward by the businesses in Vaughan Mall need to be addressed in the design process. She stated we need to make it attractive and that it is a good location to build a garage. Assistant Mayor Novelline Clayburgh also said she feels we could delay the vote on the question a few months due to the income situation until we find out what the State is going to do.

Councilor Coviello asked if anyone can answer the questions whether there will be a Joint Building Committee for the project. City Attorney Sullivan said there would not be a Joint Building Committee. A Joint Building Committee is used in the construction of a school as required by law. He further stated that this would be an administrative function with reports to the City Council during the phases of construction.

Deputy City Manager Hayden stated that the Council should be aware that there will be involvement and review of the project by the Historic District Commission, Planning Board and the Site Review Technical Advisory Committee.

Councilor Coviello said there are concerns and comments of where to locate the parking facility. He said we need to create another parking garage. He further stated that expressing opinions early on allows for more dialogue.

Discussion followed regarding the pro forma of revenues and the calculations that were used in developing the pro forma.

Councilor Smith stated that design is a big issue and he would like to table the Resolution to see a new pro forma if retail spaces were included and how they would play into the numbers. The City Council should have more say in the design phase of the project. He stated he wants to see retail along the Vaughan Mall. He also would like to see what the main costs will be in the pro forma such as the cost of security guards.

Mayor Ferrini said there is clearly a lot on the City Council minds regarding this matter.

Councilor Kennedy said she would not vote on the Resolution. She indicated the Resolution should be tabled.

Councilor Dwyer said the Council needs to integrate their perspective on parking. She said the Parking Committee looked at actual amounts of parking that is needed. She said that the City is growing and we need to create parking for these new developments.

Councilor Spear said he is wrestling with the pro forma and has concerns like Councilor Hejtmanek. He indicated he would like to do this the way the Portsmouth Middle School was done. He would like to appropriate a certain amount for the design and the City Council needs to know who would do the design before the Council votes for funding.

Councilor Hejtmanek said he agrees with Councilor Spear. He indicated his concern with the height and setbacks of the building. He said the Council needs to see a conceptual design before moving forward.

Councilor Coviello said that there are more projects coming forward in the future that will require more parking for the downtown. He further stated that the pro forma assumes we would only charge \$1.00 until 2033. He said the cost for spaces is listed at \$27,000.00, that is double the cost of the High Hanover Parking Garage. He further stated that the City Manager and staff have over estimated expenditures and under estimated revenues.

Mayor Ferrini passed the gavel to Assistant Mayor Novelline Clayburgh.

Mayor Ferrini said we need Economic Development because without it, it costs the taxpayers more money. He said projects coming forward demonstrate a significant parking need. Mayor Ferrini said we need to look at a business plan for the project.

Assistant Mayor Novelline Clayburgh returned the gavel to Mayor Ferrini.

Councilor Smith moved to table the Resolution for a report back to include how retail spaces and the hiring of manpower (security guard) play into the numbers of the pro forma. Seconded by Councilor Coviello.

Deputy City Manager Hayden spoke to a critical deadline the City will face when we lose Portwalk lot for parking.

Mayor Ferrini suggested holding a work session on this matter to review the process.

Councilor Kennedy moved to amend the motion to bring back the Resolution at the July 18, 2011 City Council meeting. Seconded by Councilor Hejtmanek. Councilor Smith agreed to the proposed date to be included as part of the original motion and Councilor Coviello agreed as the original seconder to the motion.

Motion now reads as follows:

Move to table the Resolution until the July 18, 2011 City Council meeting for a report back to include how retail spaces and the hiring of manpower (security guard) play into the numbers of the pro-forma.

Councilor Coviello said the Council needs to make a decision at some point whether we want to build a new parking garage.

Assistant Mayor Novelline Clayburgh said there is a point when the City Council needs to let go. She said we have an excellent staff and we need to move forward.

Councilor Smith said the intent of the tabling motion was for the pro forma to bring more information on retail numbers.

On a unanimous roll call 9-0, voted to table the Resolution until the July 18, 2011 City Council meeting for a report back to include how retail spaces and the hiring of manpower (security guard) play into the numbers of the pro-forma.

At 9:45 p.m., Mayor Ferrini declared a brief recess. At 9:55 p.m., Mayor Ferrini called the meeting back to order.

- C. Third and Final Reading of Proposed Ordinance Amendment to Chapter 7, Various Limited Time Parking Sections – Sunday Hours (Downtown Parking Omnibus) to have parking meters operational on Sunday

Councilor Coviello moved to pass third and final reading on the proposed Ordinance amendment, as presented. Seconded by Councilor Spear.

Councilor Coviello said he would like to change the date the ordinance would take effect to January 1, 2012 instead of being effective upon the date of passage.

Councilor Coviello moved to suspend the rules in order to allow for an amendment to the motion. Seconded by Councilor Spear.

On a roll call vote 5-4 motion to suspend the rules in order to allow for an amendment failed to pass. Councilors Hejtmanek, Spear, Dwyer, Coviello and Mayor Ferrini voted in favor. Assistant Mayor Novelline Clayburgh, Councilors Lister, Kennedy and Smith voted opposed. (Please note: that a two-thirds vote is required to suspend the rules to allow for an amendment).

Councilor Spear said we need to make parking available for customers any day of the week.

Councilor Kennedy said she will oppose the motion. Councilor Smith also indicated that he is adamantly opposed to the motion. He said Sunday is the day to give people a break. He further stated it is the one gift we give people and we are already known as being overly aggressive with ticketing in the City.

Councilor Lister said he is opposed to the ordinance. He does not feel we should charge on Sunday, we need to welcome visitors to the City. He further stated we should support the employees that work downtown on Sundays. Councilor Lister also stated that Sunday is a family day and we need to hold on to some values.

Assistant Mayor Novelline Clayburgh said she is in favor of the Ordinance. She is concerned with revenues coming into the City. She further stated that this is a small increase that will bring in \$204,000.00 in projected revenue for the first year. She said it is a small impact to bring more revenue into the City.

Councilor Smith moved to suspend the rules in order to continue the meeting beyond 10:00 p.m. Seconded by Councilor Kennedy and voted. Assistant Mayor Novelline Clayburgh voted opposed.

Councilor Dwyer asked how does it help merchants when people park in a space all day long with no turn over for other visitors.

Councilor Smith said he disagrees with Assistant Mayor Novelline Clayburgh. He said this is about revenues that can't go into the general fund. He said residents should be given a break on Sundays. He further stated that people are against this ordinance and the Council is here to represent the wishes of the citizens.

On a roll call 6-3, voted to pass third and final reading on the proposed Ordinance amendment, as presented. Assistant Mayor Novelline Clayburgh, Councilors Hejtmanek, Spear, Dwyer, Coviello and Mayor Ferrini voted in favor. Councilors Lister, Kennedy and Smith voted opposed.

- D. Third and Final Reading of Proposed Ordinance Amendment to Chapter 7, Section 7.101 – Definitions and Section 7.105 – Variable Parking Rates (Downtown Parking Omnibus) to create special parking districts with individual rates

City Attorney Sullivan stated because of the action the City Council took, it is necessary that the ordinance in front of the Council is amended. He recommended that the motion to amend occur before the motion to adopt the ordinance.

Mayor Ferrini said the reason we need to suspend the rules is so the existing language will work and therefore, a suspension of the rules is necessary for the amendment to take place.

On a roll call 6-3, voted to suspend the rules in order to allow for an amendment. Assistant Mayor Novelline Clayburgh, Councilors Hejtmanek, Spear, Dwyer, Coviello and Mayor Ferrini voted in favor. Councilors Lister, Kennedy and Smith voted opposed.

Councilor Coviello moved to amend the ordinance to include language to read *“This rate shall be enforceable Monday through Saturday from 9:00 a.m. to 7:00 p.m. and Sunday between the hours of 12:00 p.m. and 7:00 p.m., holidays excepted”*. Seconded by Councilor Hejtmanek.

On a roll call 5-4, voted to amend the ordinance to include language to read “*This rate shall be enforceable Monday through Saturday from 9:00 a.m. to 7:00 p.m. and Sunday between the hours of 12:00 p.m. and 7:00 p.m., holidays excepted*”. Councilor Hejtmanek, Spear, Dwyer, Coviello and Mayor Ferrini voted in favor. Assistant Mayor Novelline Clayburgh, Councilors Lister, Kennedy and Smith voted opposed.

Councilor Spear moved to pass third and final reading as amended. Seconded by Councilor Coviello.

Assistant Mayor Novelline Clayburgh said she would oppose the motion because she feels the ordinance is confusing for the public.

Councilor Kennedy said she agrees with Assistant Mayor Novelline Clayburgh and she will also vote opposed to the motion.

Councilor Smith said he is opposed to the ordinance and it is too confusing for the public. He feels that you nullify what the Pay and Display system is meant to do. He further stated that we do not have a large downtown area like Manchester or Boston. Councilor Smith also said that people just want to come downtown and enjoy what the City has to offer.

Councilor Lister said he is opposed to the ordinance as well, and feels we are driving people out of the City.

Councilor Dwyer said that this ordinance does not raise as much money as other changes to ordinances. She said she does not feel it is worth creating the enforcement challenges the ordinance would impose.

Councilor Coviello said he would support the motion and said we should change the rate no matter what area you park in the City.

On a roll call vote 3-6, motion to pass third and final reading as amended failed to pass. Councilors Hejtmanek, Spear and Coviello voted in favor. Assistant Mayor Novelline Clayburgh, Councilor Lister, Dwyer, Kennedy, Smith and Mayor Ferrini voted opposed.

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Donation for Art-Speak
- PixelMEDIA, Inc. - \$250.00

(Anticipated action – move to accept and approve the donation to Art-Speak for general funds, as presented)

- B. Additional 2011 Omnibus Sidewalk Obstruction Renewals – See Attached Listing
(Anticipated action – move to refer to the City Manager with power)
- C. Letter from Lauren Suprenant, March of Dimes, requesting permission to hold the 2011 Seacoast March for Babies Walkathon on Sunday, May 22, 2011 from 9:00 a.m. to 1:00 p.m. ***(Anticipated action – move to refer to the City Manager with power)***

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

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Attorney Ralph Woodman, Jr., Boynton Waldron Doleac Woodman & Scott, P.A. regarding Lot Line Revision – 155 Parrott Avenue and 82 Court Street

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

- B. Letter from Virginia Littlefield, Great Island Garden Club, requesting permission to place a sign at the corner of South Street and Sagamore Avenue to advertise the annual Great Island Garden Club plant sale being held on May 14th

Councilor Smith moved to accept and place the letter on file. Seconded by Councilor Kennedy.

Assistant Mayor Novelline Clayburgh advised the City Council that she received a call from Ruth Griffin stating that signs are not allowed at the location because of the cemetery.

Assistant Mayor Novelline Clayburgh moved to amend the motion to allow the City to inform Ms. Littlefield that the location is not allowed to place signage upon. Seconded by Councilor Coviello.

Deputy City Manager Hayden said that if it is on private property it would not be allowed.

Councilor Kennedy said she would not support the motion because she does not want to see the area cluttered.

On a voice vote the motion to amend to allow the City to inform Ms. Littlefield that the location is not allowed to place signage upon failed to pass. Assistant Mayor Novelline Clayburgh voted in favor.

Councilor Smith said it is disrespectful to place a sign in the cemetery.

On a unanimous voice vote, main motion passed to accept and place the letter on file.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Recreation Department Report Back Re: Request to Install Signage at Leary Field for 2011 Baseball Season

Deputy City Manager Hayden said that this request to install signage is as in past years.

Councilor Coviello moved to approve the request of Rockland Street Baseball (Portsmouth Babe Ruth) to install temporary signage at Leary Field for the 2011 Baseball Season and the size of the sign be 3 feet x 5 feet. Seconded by Councilor Dwyer and voted.

2. Request to Refer Sale of the Connie Bean Center to the Planning Board

Deputy City Manager Hayden recommended that the Council refer this matter to the Planning Board for report back.

Assistant Mayor Novelline Clayburgh moved to refer the aforementioned matter to the Planning Board for report back to the City Council. Seconded by Councilor Dwyer and voted.

3. Report Back Re: Zoning Request for Drive-through in CBA District

Deputy City Manager Hayden said that the Planning Board is recommending denial of the request. She further stated that the Planning Board felt the drive-through should not be in Central Business District A or Central Business District B.

Councilor Smith moved to accept the Planning Board's recommendation to deny the request, as presented. Seconded by Councilor Dwyer.

Councilor Spear said he reviewed the memorandum from the Planning Director and it indicates that all the banks downtown are non-conforming that have a drive-through.

Planning Director Taintor said they are non-conforming uses.

Councilor Spear said he appreciates the intent of the Planning Board but he feels banks need a drive-through and by this statement, we are saying we don't want banks downtown and he has a problem with that.

Planning Director Taintor said he doesn't agree with Councilor Spear's comments. He said the City is saying we want the uses not to have a drive-through in the downtown area. He further added that the Planning Board wants to maintain pedestrian walk through areas.

Councilor Smith reported that there are 4 banks that do not have a drive-through in the downtown.

Councilor Kennedy said if the banks want a drive-through they can seek a waiver.

Main motion passed with Councilor Coviello abstaining from voting on this matter.

4. Request for a License from Jody Saulnier, owner of The Manporium, for property located at 71 Congress Street to install a projecting sign

Deputy City Manager Hayden said that this is the standard request for a projection sign.

Councilor Smith moved to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Jody Saulnier, owner of The Manporium, to install a projecting sign on an existing bracket at 71 Congress Street and further authorize the City Manager to execute a License Agreement for this request. Seconded by Councilor Kennedy and voted.

Planning Director 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. Request for a License from Michael Prete, owner of The Kitchen, for property located at 171 Islington Street to install a projecting sign

Deputy City Manager Hayden said that this is the standard request for a projection sign.

Councilor Smith moved to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Michael Prete, owner of The Kitchen, to install a projecting sign on an existing bracket at 171 Islington Street and further authorize the City Manager to execute a License Agreement for this request. Seconded by Councilor Kennedy and voted.

Planning Director 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***

6. Request for Approval of Pole License #63-0509

Deputy City Manager Hayden reported that the Public Works Department has reviewed the request for a license and recommends its approval.

Councilor Smith moved to approve the request from PSNH for pole license agreement, #63-0509, as recommended by the Public Works Department. Seconded by Councilor Kennedy and voted.

City Manager's Informational Items

- Reminder Re: Reconvene FY12 Budget Public Hearing

Deputy City Manager Hayden announced that the City Council will reconvene the FY12 Budget Public Hearing on Monday, May 9, 2011 at 7:00 p.m., at the Portsmouth High School Auditorium.

- Informational Session on SB3 Re: Making Changes to the New Hampshire Retirement System

Deputy City Manager Hayden reported that State Senator Nancy Stiles and Senator Jeb Bradley will attend an information forum on Senate Bill 3 on Tuesday, May 17, 2011, at 6:30 p.m., in the Eileen Dondero Foley City Council Chambers.

B. MAYOR FERRINI

1. Appointments to be Considered:
 - Thomas Heany – Reappointment to the Portsmouth Housing Authority
 - Jacqueline Cali-Pitts – Reappointment to the Recreation Board
 - Elaine Syracuse – Reappointment to the Recreation Board
 - Elissa Hill Stone – Appointment as Regular Member to the Conservation Commission (currently serves as an alternate)

The appointments listed above were considered and will be voted at the May 16, 2011 City Council meeting.

2. Appointments to be Voted:
 - John Gregg – Reappointment to the Cable Television & Communications Commission
 - Allison Tanner – Reappointment to the Conservation Commission
 - Barbara McMillan – Reappointment to the Conservation Commission
 - Steve Miller – Reappointment to the Conservation Commission
 - Philip Cohen – Appointment to the Economic Development Commission

Assistant Mayor Novelline Clayburgh moved to reappoint John Gregg to the Cable Television & Communications Commission until April 1, 2014; the reappointment of Allison Tanner, Barbara McMillan, Steve Miller to the Conservation Commission until April 1, 2014; the appointment of Philip Cohen to the Economic Development Commission until October 1, 2012. Mr. Cohen is filling the unexpired term of Susanne Delaney. Seconded by Councilor Lister and voted.

3. Letter from Lea Aeschliman Re: Trustee of the Trust Funds Term

Mayor Ferrini stated that he is reviewing and considering individuals to fill Ms. Aeschliman's spot on the Trustee of the Trust Fund.

C. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the April 14, 2011 meeting

Councilor Smith moved to approve and accept the action sheet and minutes of the April 14, 2011 Traffic & Safety Committee meeting with the exception of Item #2 – Clough Drive. Seconded by Councilor Dwyer and voted with Councilor Kennedy voting opposed.

Councilor Smith moved to refer Item 2 – Clough Drive to the City Manager to authorize the City Attorney to prepare a report back addressing the legal issues relative to this matter. Seconded by Councilor Coviello.

Councilor Smith reported that this issue has come before the Traffic & Safety Committee twice. He advised the Council that the main issue is whether or not Clough Drive is a driveway or road. He further stated that if Clough Drive is a driveway an easement is needed by the property owner. If it is a road, you are denying the property owner access to their driveway. He said we need to know who really owns the road. He said he would like a report back from City Attorney Sullivan addressing the legal issues.

Mayor Ferrini said if it comes back to the Traffic & Safety Committee, will the School Board be able to address the matter again.

City Attorney Sullivan said it is important to remember that the Traffic & Safety Committee is just advisory, and it is only when the City Council adopts the minutes that the Traffic & Safety Committee have force.

Assistant Mayor Novelline Clayburgh said until the issue is resolved, the children would use the sidewalks.

Motion passed with Councilor Kennedy voting opposed.

2. Parking Committee Action Sheet and Minutes of the April 14, 2011 meeting

Councilor Smith moved to approve and accept the action sheet and minutes of the April 14, 2011 Parking Committee meeting. Seconded by Councilor Hejtmanek and voted. Councilor Kennedy voted opposed.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

At 11:00 p.m., Councilor Coviello moved to adjourn. Seconded by Councilor Smith and voted.

A handwritten signature in black ink that reads "Kelli L. Barnaby". The signature is written in a cursive style and is positioned above the typed name and title.

Kelli L. Barnaby, CMC/CNHMC
City Clerk