

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 17, 2011

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

I. CALL TO ORDER

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 (Joined via conference call), Coviello, Kennedy and Smith

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

Councilor Hejtmanek led the Pledge of Allegiance.

PROCLAMATIONS

1. National Arts and Humanities Month

Councilor Coviello read the Proclamation declaring October as National Arts and Humanities Month. Mayor Ferrini presented the Proclamation to Robin Albert, Art-Speak that accepted it with thanks and appreciation.

2. Small Business Saturday in Portsmouth

Councilor Smith read the Proclamation declaring November 26, 2011 as Small Business Saturday in Portsmouth.

PRESENTATION

1. Trustees of the Trust Funds

Brad Lown, Trustees of the Trust Funds provided a brief presentation outlining the responsibilities of Trustees and the various funds they oversee.

Mayor Ferrini thanked Brad and the Trustees of the Trust Funds for preparing and presenting this report to the City Council.

V. ACCEPTANCE OF MINUTES – OCTOBER 3, 2011

Councilor Smith moved to approve and accept the minutes of the September 19, 2011 City Council meeting. Seconded by Councilor Lister. On a unanimous roll call 9-0, voted to approve and accept the minutes of the October 3, 2011 City Council meeting.

Councilor Smith moved to suspend the rules in order to take up Item IX. E. - Second reading of Ordinance Amendment (*tabled from the April 18, 2011 City Council meeting*) to Chapter 7 Article IV, Section 7.402 – Off-Street Parking Areas – Parrott Avenue Parking Lot (Downtown Parking Omnibus) by the Placement of Parking Meters. Seconded by Councilor Lister. On a unanimous roll call 9-0 motion passed.

IX. E. - Second reading of Ordinance Amendment (*tabled from the April 18, 2011 City Council meeting*) to Chapter 7 Article IV, Section 7.402 – Off-Street Parking Areas – Parrott Avenue Parking Lot (Downtown Parking Omnibus) by the Placement of Parking Meters

Councilor Smith moved to table the Ordinance indefinitely. Seconded by Councilor Lister.

City Attorney Sullivan reported that this ordinance would not come back before the City Council without advanced notice or by a suspension of the rules. In addition, if this ordinance does not come back before the end of this City Council term the ordinance would die.

Assistant Mayor Novelline Clayburgh said that the City Council has done their work on parking and perhaps a future City Council would take this matter up or not. She also said that the new Transportation Committee will deal with some of these type of items.

Councilor Smith said he feels it is a tax on the businesses downtown.

On a unanimous roll call 9-0 motion passed.

VI. PUBLIC COMMENT SESSION

Crystal Paradis, thanked the City Council for their action to table the Parrott Avenue Parking Ordinance indefinitely.

Nicholas Mirabello, thanked Mayor Ferrini and City Council for tabling the Parrott Avenue Parking Ordinance indefinitely.

Aaron Lawson, thanked the City Council for tabling the Parrott Avenue Parking Ordinance indefinitely.

Peter Somssich reported on the Greening of Court Street Project. He informed the Council that this project was done in conjunction with the Public Works Department and Osram Sylvania, Inc.. The goal of the project was to improve the street-lighting conditions and

enhance safety on Court Street, while reducing the operating costs and total cost of ownership. In addition, the project expected to reduce the environmental impact, the CO2 greenhouse gas emissions (GHG) associated with the operation of the lamps on Court Street. Mr. Somssich further indicated that the City of Portsmouth was provided with 30 lamps free of charge from Osram Sylvania for testing and data collection purposes. Compared to 2 CFLs, using a single Dura-One, as of August 24, 2011 the City has seen a savings benefit of \$1,268.00 for the total cost of ownership of the 30 lamps on Court Street and has resulted in a GHG emissions reduction of CO2 by 13,714 lbs.

Assistant Mayor Novelline Clayburgh moved to suspend the rules in order to take up Item XII. A.5. - Approval of Indoor Pool Agreement Re: Save the Indoor Portsmouth Pool. Seconded by Councilor Lister. On a unanimous roll call 9-0, motion passed.

XII. A.5. - Approval of Indoor Pool Agreement Re: Save the Indoor Portsmouth Pool

Assistant City Attorney Woodland provided an overview of the Consolidated Lease and Operations Agreement to maintain the Portsmouth Public Pool. She explained that this is a 5 year Agreement that will expire on June 30, 2016. She also spoke to all the capital improvements being the responsibility of SIPP and they will invest at \$750,000.00 over the 5 year term. Assistant City Attorney Woodland informed the City Council that the City would continue to provide insurance for the indoor pool and maintain the day to day operations. In addition, she spoke to the City appropriating \$150,000.00 annually for the operation of the public pool; such amount shall be transferred from the City's General Fund to the Indoor Pool Special Revenue Fund at the start of each fiscal year and shall be restricted and committed for expenditures for the operations of the indoor pool.

Councilor Smith moved to approve the Indoor Pool Agreement between the City and Save the Indoor Portsmouth Pool, and further, authorize the City Manager to execute the final Agreement. Seconded by Councilor Kennedy.

City Manager Bohenko informed the City Council that any changes to affect residents would go to the Recreation Director and who would bring any matters before the Recreation Board.

On a unanimous roll call 9-0, motion passed.

VII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 7, ARTICLE I, SECTION 7.103, 7.104, AND FURTHER AMEND CHAPTER 1, ARTICLE IV, SECTION 1.412 ENTITLED THE PARKING AND TRAFFIC SAFETY COMMITTEE

Mayor Ferrini read the legal notice, declared the public hearing open and called for speakers. There being no speakers, Mayor Ferrini declared the public hearing closed.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Police Department Donation and Grant Awards
- Donation from William Mortimer to the Police Honor Guard in memory of retired officers Robert Knight and Richard Maddock - \$100.00
 - Acceptance of Edward Byrne Memorial Justice Assistance Grant from the Office of Justice Programs - \$13,950.00
 - Acceptance of Police Standards and Training Council Grant for mid-level management course for two lieutenants - \$2,000.00
 - Acceptance of Department of Juvenile Justice and Delinquency Prevention Grant to continue funding of the New Hampshire Internet Crimes Against Children Task Force (ICAC) - \$234,318.00

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

Police Captain McDonald explained the Grant for the NH Internet Crimes Against Children Task Force in the amount of \$234,318.00. He informed the City Council that a portion of some officers' salaries are funded by the Grant.

Councilor Lister asked what region this Grant covers. Captain McDonald stated that the Grant covers the entire State of New Hampshire.

On a unanimous roll call 9-0, motion passed.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Proposed Resolution regarding Solar Power Tax Exemption

City Manager Bohenko informed the City Council that the Resolution would require the City Council to schedule a public hearing on November 21st. He said that this would allow for a tax exemption for solar power. He said that this would be for the installation of solar equipment only. City Manager Bohenko also stated that the tax lost for the City would be a maximum of \$425.00 for 5 years only.

Councilor Smith moved to schedule a public hearing on the proposed Resolution, as presented, at the November 21, 2011 City Council meeting. Seconded by Assistant Mayor Novelline Clayburgh.

Councilor Smith requested City Manager Bohenko report back to the City Council the number of exemptions currently issued under the current Solar Power Tax Exemption.

On a unanimous roll call 9-0, motion passed.

- B. First reading of Proposed Resolution to Levy Property Tax on Right-of-Way Use by Utilities

Councilor Smith moved to schedule a public hearing on the proposed Resolution, as presented, at the November 21, 2011 City Council meeting. Seconded by Assistant Mayor Novelline Clayburgh.

City Attorney Sullivan provided an explanation of the RSA governing the Levy Property Tax on Right-of-Way Use by Utilities. He spoke to the case involving the City of Rochester and Verizon whereby it was determined that the City could tax any utility in the City right-of-way. He stated that the Resolution would put the City of Portsmouth in line with other municipalities to impose and collect tax on any company using the City right-of-way.

City Manager Bohenko advised the City Council that they would need to conduct a public hearing on this matter at the November 21st Council meeting.

Councilor Smith said he is concerned with the number of agreements with the City of Portsmouth for projecting sign, footings to buildings, gutters which extend onto City property, etc. City Manager Bohenko said he would provide a report on this matter for the City Council. He said taxes would be based on the overall assessment of the building.

Assistant Mayor Novelline Clayburgh asked how much money this would bring into the City. City Manager Bohenko responded approximately \$600,000.00 in revenue. Assistant Mayor Novelline Clayburgh said she is pleased with the potential for additional revenue.

On a unanimous roll call 9-0, motion passed.

- C. First reading of Ordinance Amendment to Chapter 7, Article III – Traffic Ordinance – No Through Traffic by the deletion of Broad Street; Commercial Alley, between Penhallow Street and Market Street; and Vaughan Street, between Congress Street and Hanover Street

Councilor Smith moved to pass first reading and schedule a public hearing and second reading of the proposed Ordinance amendment, as presented, at the November 21, 2011 City Council meeting. Seconded by Assistant Mayor Novelline Clayburgh.

Councilor Smith explained that the current ordinance prohibited residents from Jones Avenue using Broad Street and requested that this portion of the ordinance be deleted.

Assistant Mayor Novelline Clayburgh said that she would support this to go forward for a public hearing to allow public input. She did however; express her concern with the addition of traffic on Broad Street.

On a unanimous roll call 9-0, motion passed.

- D. First reading of Ordinance Amendment to Chapter 7, Article XI, Section 7.1100 - Speed Limits – sub-section C 15 MPH by the addition of Bow Street, Chapel Street, and Penhallow Street

Councilor Smith moved to pass first reading and schedule a public hearing and second reading of the proposed Ordinance amendment, as presented, at the November 21, 2011 City Council meeting. Seconded by Councilor Coviello.

Councilor Smith said that this ordinance will designate a speed limit for the above referenced streets.

On a unanimous roll call 9-0, motion passed.

- F. Second reading of Ordinance Amending Chapter 7, Article I, Section 7.103, 7.104, and further amend Chapter 1, Article IV, Section 1.412 entitled the Parking and Traffic Safety Committee

Councilor Smith moved to pass first reading and schedule a public hearing and second reading of the proposed Ordinance amendment, as presented, at the November 21, 2011 City Council meeting. Seconded by Councilor Coviello.

On a unanimous roll call 9-0, motion passed.

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Donations to the Coalition Legal Fund
- Town of Holderness - \$1,000.00
 - Town of Hebron - \$1,000.00
 - Town of Newington - \$1,000.00
- (Anticipated action – move to approve and accept the donations, as listed, to be placed in the Coalition Legal Fund)***
- B. *Acceptance of Donation to the USS Virginia Party
- Sevigney Lyons - \$250.00
- (Anticipated action – move to approve and accept the donation for the USS Virginia, as presented)***
- C. Request for a License from Dennis Randall, owner of Earthtec for property located at 76 Congress Street to install a projecting sign ***(Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director and, further, authorize the City Manager to execute a License Agreement for this request)***

Planning Director's 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, shall 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***

D. Request for a License from Doreen Mellon, owner of Ellenette for property located at 214 State Street to install a projecting sign on an existing bracket ***(Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director and, further, authorize the City Manager to execute a License Agreement for this request)***

Planning Director's 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, shall 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***

E. Request for a License from Mark McNabb (signs #1-3) and Michael Buckley (sign #4), owner of Martingale Wharf, LB (signs #1-3) and Surf Portsmouth RNC (revised license) (sign #4) for property located at 99 Bow Street to install projecting signs ***(Anticipated action – move to approve the aforementioned Projecting Sign Licenses as recommended by the Planning Director and, further, authorize the City Manager to execute the License Agreements for this request)***

Planning Director's 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, shall 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***

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

On a unanimous roll call 9-0, motion passed.