

TO: JOHN P. BOHENKO, CITY MANAGER

FROM: KELLI L. BARNABY, CITY CLERK

RE: ACTIONS TAKEN BY THE PORTSMOUTH CITY COUNCIL MEETING HELD ON MAY 21, 2012, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, MUNICIPAL COMPLEX, ONE JUNKINS AVENUE, PORTSMOUTH, NEW HAMPSHIRE

PRESENT: MAYOR SPEAR, ASSISTANT MAYOR LISTER, COUNCILORS COVIELLO, KENNEDY, NOVELLINE CLAYBURGH, LOWN, DWYER, SMITH AND THORSEN

1. Acceptance of Minutes – April 18, 2012 – Voted to approve and accept the minutes of the April 18, 2012 City Council meeting.
2. Public Comment Session – There were three speakers: Mark Brighton (Contract); Tom Martin and Carl Wittig (Bike rack).
3. Public Hearing - Resolution Appropriating the sum of One Million Nine Hundred Seventy-Seven Thousand, Nine Hundred Seventy-Three Dollars and Sixty-One Cents (\$1,977,973.61) for Expenses relating to various General Fund Projects as noted below:
 - 1) Seawall Repairs
 - 2) Coakley Road/Cottage Street Pedestrian Improvements
 - 3) Peverly Hill Road New Sidewalk
 - 4) Little Harbour Instructional Space
 - 5) Scott Avenue Bridge Replacement
 - 6) Portion of the Sagamore Bridge Project

Held a public hearing. Voted to adopt a Resolution appropriating the sum of One Million Nine Hundred Seventy-Seven Thousand, Nine Hundred Seventy-Three Dollars and Sixty-One Cents (\$1,977,973.61) for expenses relating to various General Fund projects.

4. Public Hearing - Resolution Appropriating the sum of Two Hundred One Thousand, Eight Hundred Thirty-Four Dollars and Four Cents (\$201,834.04) for Expenses relating to the McDonough Street Sewer Line Replacement Project – Held a public hearing. Voted to adopt a Resolution appropriating the sum of Two Hundred One Thousand, Eight Hundred Thirty-Four Dollars and Four Cents (\$201,834.04) for expenses relating to Sewer line replacement for McDonough Street Sewer project.
5. Acceptance of Community Development Block Grant Funds – Voted to accept and expend a Community Development Block Grant (CDBG) in the amount of \$475,235.00 from the U.S. Department of Housing and Urban Development.
6. Third and Final reading of Proposed Amendment to Taxi Ordinance – Chapter 7, Article II, Section 7.229 – General Provisions by a new Sub-section E - entitled Compliance with State and Federal Law – Voted to pass third and final reading of the proposed Ordinance amendment, as presented.

7. Third and Final reading of Proposed Amendment to Chapter 10, Article 4, Section 10.440 of the Zoning Ordinance – Table of Uses – Residential, Mixed Residential, Business and Industrial Districts by creating Performance Standards applicable to Drive-through Facilities, and Chapter 10, Article 8, Section 10.836.20 of the Zoning Ordinance regarding Accessory Drive-through Uses by changing type of approval required from a Special Exception to a Conditional Use Permit – Voted to pass third and final reading of the proposed Ordinance amendment, as presented.
8. Third and Final reading of Proposed Amendment to Zoning Ordinance, Chapter 10, Article 15, Section 10.1530 – Terms of General Applicability relative to the Definition of Museum regarding Accessory Uses that are Incidental and Subordinate to the Primary Non-Profit Museum Use – Voted to pass third and final reading of the proposed Ordinance amendment, as presented.
9. Adoption of Proposed Budget Resolutions for Fiscal Year July 1, 2012 through June 30, 2013 (FY2013)

Resolution #5-2012 – General Fund Expenditures – Moved to adopt Resolution #5 – General Fund Expenditures.

- Voted to amend Resolution #5 by reducing \$72,000.00 from Collective Bargaining Contingency.
- On a roll call 6-3, voted to amend Resolution #5 by reducing \$50,000.00 from Overlay. Assistant Mayor Lister, Councilors Kennedy, Novelline Clayburgh, Dwyer, Smith and Thorsen voted in favor. Councilors Coviello, Lown and Mayor Spear voted opposed.
- On a roll call 4-5, motion to amend Resolution #5 by reducing \$50,000.00 from TANS/Debt Related Costs ***failed*** to pass. Assistant Mayor Lister, Councilors Kennedy, Smith and Thorsen voted in favor. Councilors Coviello, Novelline Clayburgh, Lown, Dwyer and Mayor Spear voted opposed.
- Voted to amend Resolution #5 by reducing \$10,000.00 from Capital Outlay – Jones Avenue.
- On a roll call 5-4, voted to amend Resolution #5 by reducing \$37,500.00 from Capital Outlay – Capital Contingency. Assistant Mayor Lister, Councilors Kennedy, Lown, Smith and Thorsen voted in favor. Councilors Coviello, Novelline Clayburgh, Dwyer and Mayor Spear voted opposed.
- On a roll call 4-5, motion to amend Resolution #5 by reducing \$68,000.00 from the Police Department ***failed*** to pass. Councilors Coviello, Lown, Thorsen and Mayor Spear voted in favor. Assistant Mayor Lister, Councilors Kennedy, Novelline Clayburgh, Dwyer and Smith voted opposed.

- On a roll call 2-7, motion to amend Resolution #5 by reducing \$292,800.00 from the General Fund Expenditures **failed** to pass. Councilors Kennedy and Thorsen voted in favor. Assistant Mayor Lister, Councilors Coviello, Novelline Clayburgh, Lown, Dwyer, Smith and Mayor Spear voted opposed.
- On a roll call 3-6, motion to amend Resolution #5 by adding \$50,000.00 to the General Fund Expenditures for elderly expenses **failed** to pass. Assistant Mayor Lister, Councilors Kennedy and Thorsen voted in favor. Councilors Coviello, Novelline Clayburgh, Lown, Dwyer, Smith and Mayor Spear voted opposed.
- On a roll call 2-7, motion to amend Resolution #5 by reducing \$390,000.00 from the Capital Improvement Plan **failed** to pass. Councilors Kennedy and Thorsen voted in favor. Assistant Mayor Lister, Councilors Coviello, Novelline Clayburgh, Lown, Dwyer, Smith and Mayor Spear voted opposed.
- On a roll call 2-7, motion to amend Resolution #5 by instructing the City Manager to use \$250,000.00 from Committed Fund Balance – Debt Service Reserves **failed** to pass. Councilors Kennedy and Thorsen voted in favor. Assistant Mayor Lister, Councilors Coviello, Novelline Clayburgh, Lown, Dwyer, Smith and Mayor Spear voted opposed.
- On a voice vote 2-7, motion to amend Resolution #5 by reducing \$100,000.00 from Rolling Stock **failed** to pass. Councilors Kennedy and Thorsen voted in favor. Assistant Mayor Lister, Councilors Coviello, Novelline Clayburgh, Lown, Dwyer, Smith and Mayor Spear voted opposed.
- On a voice vote 2-7, motion to amend Resolution #5 by reducing \$587,000.00 from the General Fund Expenditures which represents 1% of salaries and benefits across all departments **failed** to pass. Councilors Kennedy and Thorsen voted in favor. Assistant Mayor Lister, Councilors Coviello, Novelline Clayburgh, Lown, Dwyer, Smith and Mayor Spear voted opposed.
- On a roll call 4-5, motion to amend Resolution #5 by reducing \$60,000.00 from the Police Department **failed** to pass. Councilors Coviello, Lown, Thorsen and Mayor Spear voted in favor. Assistant Mayor Lister, Councilors Kennedy, Novelline Clayburgh, Dwyer and Smith voted opposed.

- On a roll call 7-2, voted to adopt Resolution #5 – General Fund Expenditures, as amended. Assistant Mayor Lister, Councilor Coviello, Novelline Clayburgh, Lown, Dwyer, Smith and Mayor Spear voted in favor. Councilors Kennedy and Thorsen voted opposed.

Department	Appropriation
General Government	\$15,905,044
Police	\$8,838,885
Fire	\$7,155,250
School	\$38,302,260
Collective Bargaining Contingency	\$100,000
Transfer to Indoor Pool	\$150,000
Non-Operating	\$20,104,829
Total	\$90,556,268

10. Resolution #6-2012 – Municipal Fees – On a unanimous voice vote 9-0, voted to adopt Resolution #6 – Municipal Fees.

11. Resolution #7-2012 – Sewer Fund Expenditures – Moved to adopt Resolution #7 – Sewer Fund Expenditures.

On a roll call vote 3-6, motion to amend Resolution #7 by reducing the proposed sewer user rate effective July 1, 2012 to \$8.29 per unit for the first 10 units of sewer usage per month, and \$9.11 per unit for all units used thereafter to yield a portion of revenue to meet the cash requirement for the operation of the City of Portsmouth’s sewer system **failed** to pass. Assistant Mayor Lister, Councilors Kennedy and Thorsen voted in favor. Councilors Coviello, Novelline Clayburgh, Lown, Dwyer, Smith and Mayor Spear voted opposed.

On a voice vote 7-2, main motion to adopt Resolution #7 – Sewer Fund Expenditures passed. Assistant Mayor Lister, Councilors Coviello, Novelline Clayburgh, Lown, Dwyer, Smith and Mayor Spear voted in favor. Councilors Kennedy and Thorsen voted opposed.

12. Resolution #8-2012 – Water Fund Expenditures – On a voice vote 8-1, voted to adopt Resolution #8 – Water Fund Expenditures. Assistant Mayor Lister, Councilors Coviello, Kennedy, Novelline Clayburgh, Lown, Dwyer, Smith and Mayor Spear voted in favor. Councilor Thorsen voted opposed.

13. Resolution #9-2012 – Special Revenues and Committed Fund Balances for Necessary Expenditures – On a unanimous voice vote 9-0, voted to adopt Resolution #9 – Special Revenues and Committed Fund Balances for Necessary Expenditures.

14. Resolution #10-2012 – Investment Policy – On a unanimous voice vote 9-0, voted to adopt Resolution #10 – Investment Policy.

15. Consent Agenda – Voted to adopt the Consent Agenda.

- A. Request for License from Joe Kelley, owner of ONEOHEIGHT Premium Threads for property located at 6 Commercial Alley for a projecting sign on a new bracket ***(Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Joe Kelley, owner of ONEOHEIGHT Premium Threads, for 1 projecting sign at property located at 6 Commercial Alley and, further, authorize the City Manager to execute License Agreements for this request)***

Planning Director's Stipulations:

- ***The licenses shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting signs, 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 signs, 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***

- B. Request for License from Holly Fortier, owner of Blue Grasshopper for property located at 10 Commercial Alley for a projecting sign on an existing bracket ***(Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Holly Fortier, owner of Blue Grasshopper, for 1 projecting sign at property located at 10 Commercial Alley and, further, authorize the City Manager to execute License Agreements for this request)***

Planning Director's Stipulations:

- ***The licenses shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting signs, 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 signs, 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***

- C. Request for License from Tiana Conlon and Jessica Antequera, owners of Random Acts of Sweetness for property located at 112 State Street for a projecting sign on an existing bracket (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Tiana Conlon and Jessica Antequera, owners of Random Acts of Sweetness, for 1 projecting sign at property located at 112 State Street and, further, authorize the City Manager to execute License Agreements for this request***)

Planning Director's Stipulations:

- ***The licenses shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting signs, 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 signs, 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 License from Ryan Cronin, owner of Clark's Creamery, for property located at 150 State Street for a projecting sign on an existing bracket (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Ryan Cronin, owner of Clark's Creamery, for 1 projecting sign at property located at 150 State Street and, further, authorize the City Manager to execute License Agreements for this request***)

Planning Director's Stipulations:

- ***The licenses shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting signs, 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 signs, 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 Approval of Pole License to install/replace 1 pole located on Pearl Street (***Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes***)
- F. Acceptance of Donations to Peirce Island Committee
- Frank Roth - \$100.00
 - Lisa Louttit - \$35.00
 - Ann Pattison - \$50.00
 - Pat Bertrand - \$25.00
 - Kathy Price - \$25.00
 - Steph Delude - \$50.00
 - Raffles - \$361.00
 - Pizza Sales - \$495.25

(Anticipated action – move to accept and approve the donations, as submitted)

16. Letter from Jim Swisher, Portsmouth Music and Arts Student Concerts, requesting permission to hold performances at North Church, Vaughan Mall, Commercial Alley, Market Street and Deer Street on Friday, June 1, 2012 for the Shop Portsmouth Friday Night Launch Party – Voted to refer to the City Manager with power.
17. Letter from Ronan Donohoe, Warner House Association, requesting permission to place a temporary Warner House sign in the pocket-park located on Daniel Street between the Warner House and Bow Street – Voted to refer to the City Manager with power.
18. Letter from Lisa Henderson, Workforce Housing Coalition, requesting the City to participate in a design charrette of the Rock Street Garage for re-development as workforce housing – Voted to refer to staff for report back and recommendation.
19. Letter from Mark Herrholz, Portsmouth Professional Firefighters Local 1313, requesting permission to conduct two boot drives for MDA on Saturday, July 14, 2012 and Saturday, August 18, 2012 from 8:00 a.m. – 5:00 p.m. in Market Square – Voted to refer to the City Manager with power.
20. Letter from Stephen Kelm requesting an easement from the City to access his property at 80 Wright Avenue – Voted to refer to the Planning Board for report back. Councilor Coviello abstained from voting.
21. Proposed Approval of the Portsmouth School Custodians Local 1386 of the American Federation of State, County and Municipal Employees (AFSCME) Tentative Agreement – Voted to approve the Agreement between the Portsmouth School Board and the Portsmouth School Custodians Local 1386 of the American Federation of State, County and Municipal Employees (AFSCME) Tentative Agreement to expire June 30, 2014. Councilors Coviello and Thorsen voted opposed.

22. Proposed Approval of Contract for Deputy Fire Chief Carl Roediger – Voted to approve the Employment Agreement between the Portsmouth Fire Commission and Carl F. Roediger, Deputy Fire Chief. Councilors Coviello and Thorsen voted opposed.
23. Request to Establish a Work Session Re: Parking Omnibus Proposal – Voted to establish a work session on Monday, June 18, 2012 at 6:30 p.m., regarding the parking omnibus proposal.
24. Request for Authority to Submit Economic Revitalization Zone Application – Voted to authorize the City Manager to submit an application to the New Hampshire Department of Resources and Economic Development for designation of Heritage Avenue and Constitution Avenue as an Economic Revitalization Zone (ERZ).
25. Proposed Amendments to the Zoning Ordinance Re: Off-Street Parking Standards in the Downtown Overlay District – Voted to accept the recommendation of the Planning Board, and further, authorize the City Manager to bring back for first reading the proposed Ordinance amendments, as presented, at the June 11th City Council meeting.
26. Report Back Re: Request from Attorney John McGee, Jr. on behalf of the Trustees of Arthur MacDonald Trust and 82 Court Street, LLC, for Lot Line Revisions with the Middle School Property – Voted to approve the request to convey the land to Arthur MacDonald Trust and 82 Court Street LLC and join in an application for a lot line revision, and, further to authorize the City Manager to proceed with the negotiation and execution of the necessary documents.
27. City Manager's Informational Item 3 – Senior Housing Inventory – Voted to request that the Planning Board review the Zoning Ordinance Table of Uses and Zones to expand where assisted living facilities can be located. Councilors Kennedy and Novelline Clayburgh voted opposed.
28. Remaining Agenda Items – Mayor Spear announced due to the late hour the remaining agenda items would be brought forward at the June 11, 2012 City Council meeting. Remaining items are as follows:
 - Mayor Spear – Reports
 - Councilor Novelline Clayburgh – Report on Elderly Services
 - Councilor Kennedy – Report on Elderly Services
 - Councilor Coviello – Bike Corrals
 - Councilor Coviello and Councilor Novelline Clayburgh – City Council Rule 23 – Committee Nominations.
29. Adjournment – At 11:10 p.m., voted to adjourn.

Respectfully submitted by:

Kelli L. Barnaby, CMC/CNHMC
City Clerk