

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, MAY 21, 2012

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

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

Mayor Spear called the meeting to order at 7:05 p.m.

II. ROLL CALL

Present: Mayor Spear, Assistant Mayor Lister, Councilors Coviello, Kennedy, Novelline Clayburgh, Lown, Dwyer, Smith and Thorsen

III. INVOCATION

Mayor Spear asked everyone to join in a moment of Silent Prayer.

IV. PLEDGE OF ALLEGIANCE

Assistant Mayor Lister led the Pledge of Allegiance to the Flag.

V. ACCEPTANCE OF MINUTES – APRIL 18, 2012

Councilor Coviello moved to approve and accept the minutes of the April 18, 2012 City Council meeting. Seconded by Assistant Mayor Lister and voted.

VI. PUBLIC COMMENT SESSION

Mark Brighton spoke regarding the proposed contract for the custodians. He said he does not agree with the exchanging of 2 sick days for 1 personal day and the changing of language from merit based increases to tenure. He asked that the City Council not vote on the contract this evening to provide more thought on the removal of the merit language.

Tom Martin spoke in support of the bike racks being installed downtown. He said cycling needs some accommodations and that taking one parking spot is a small move. He stated if a bike racks in not in place you will never know if people will come to use it. Mr. Martin spoke to the accommodations being provided by other communities for bicyclists with the passage of ordinances. He said some of the communities are recommending that there is one bike spot for every 5 parking spaces put in place for vehicles.

Carl Whitting said he agrees with Tom and he rides his bike everyday. He said this City has a European feel. He urged the City Council vote to install bike racks.

VII. PUBLIC HEARINGS

- 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 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

Mayor Spear read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor Spear declared the public hearing closed.

- B. 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

Mayor Spear read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor Spear declared the public hearing closed.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Community Development Block Grant Funds

Councilor Lown moved 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. Seconded by Councilor Coviello and voted.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Adoption of 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

Councilor Coviello moved 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. Seconded by Councilor Smith.

Councilor Thorsen said a number of the items on the list relate to the Capital Improvement Plan (CIP) and asked if the numbers are expenditures in this budget or next budget. City Manager Bohenko said if approved by the Council they would be expenditures in this year's budget. He further stated we would get started on the Coakley Road project right away with appropriation coming from the bond premium. Councilor Thorsen asked how this would affect the next budget. City Manager Bohenko reviewed the list of projects that will be funded by the bond premium as follows:

*Seawall Repairs	\$250,000.00
*Coakley Road/Cottage Street Pedestrian Improvements	\$180,000.00
*Peverly Hill Road new Sidewalk	\$ 50,000.00
**Little Harbour Instructional Space	\$600,000.00
**Scott Avenue Bridge Replacement	\$725,000.00
**Portion of the Sagamore Bridge project	<u>\$172,973.61</u>
<u>Total</u>	\$1,977,973.61

- *Capital Outlay FY13
- **Bonding FY13

The use of the bond premium results in:

- 1) The reduction of the proposed Capital Outlay of \$1,550,000.00 to \$1,070,000.00 or \$480,000.00 and
- 2) The reduction of debt service by \$22,969.00 from interest payments budgeted in FY13.

In addition, the City recently refunded the balance of the \$38 million bond issued in 2002 to construct and renovate the Portsmouth High School. This refunding will save more than \$2.8 million over the remaining 10 years of the bond issue and result in a reduction of \$260,969.00 in the proposed FY13 budget.

The total reduction from the originally submitted Proposed Budget is as follows:

Capital Outlay	\$480,000.00
Debt Service	<u>\$283,065.00</u>
Total	\$763,065.00

Motion passed.

- B. Adoption of 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

Councilor Lown moved 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. Seconded by Councilor Coviello and voted.

Councilor Thorsen said he wanted to make note that this would have the same effect. City Manager Bohenko said it would not affect the tax rate or sewer fund.

- C. 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

Councilor Novelline Clayburgh moved to pass third and final reading of the proposed Ordinance amendment, as presented. Seconded by Councilor Kennedy and voted.

- D. 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

Councilor Dwyer moved to pass third and final reading of the proposed Ordinance amendment, as presented. Seconded by Councilor Coviello and voted.

- E. 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

Councilor Novelline Clayburgh moved to pass third and final reading of the proposed Ordinance amendment, as presented. Seconded by Councilor Kennedy and voted.

- F. Adoption of Proposed Budget Resolutions for Fiscal Year July 1, 2012 through June 30, 2013 (FY2013)
- Resolution #5-2012 – General Fund Expenditures

City Manager Bohenko spoke to the reduction brought forward at the Work Session on Wednesday evening. He said the reduction would increase the tax rate by \$.38. He discussed the process for adopting the General Fund Expenditures Resolution and requested that the Council take a recess after all amendments are brought forward to make the necessary changes to the Resolution. He stated that this would allow staff to ensure that the correct figure is brought forward before the Resolution is adopted as amended.

Councilor Smith moved to adopt Resolution #5 – General Fund Expenditures. Seconded by Assistant Mayor Lister.

Councilor Smith moved to amend Resolution #5 by reducing \$72,000.00 from Collective Bargaining Contingency. Seconded by Assistant Mayor Lister and voted.

Councilor Smith moved to amend Resolution #5 by reducing \$50,000.00 from Overlay. Seconded by Councilor Kennedy.

Councilor Coviello spoke against the amendment. He stated that the number has been vetted.

Councilor Dwyer said reducing the Overlay by \$50,000.00 is reasonably conservative.

Councilor Smith stated that there is historical data that shows we could conservatively make this reduction.

Councilor Novelline Clayburgh asked if this was the account we use for abatements. City Manager Bohenko stated that is correct. He stated that we would go through the abatement process but does not feel we have large exposures.

Councilor Lown spoke against the motion stating that he feels the amount should remain as budgeted.

Councilor Kennedy said she wants to ensure that we have a tax rate that is affordable for everyone.

Councilor Thorsen said he supports the motion.

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.

Councilor Smith moved to amend Resolution #5 by reducing \$50,000.00 from TANS/Debt Related Costs. Seconded by Councilor Kennedy.

Councilor Dwyer stated that we did not need to use much in FY11 and we are looking for more this year. Finance Director Belanger stated that this is related to if the City Council has a cash flow problem. The last time we borrowed short term was back in 1999. She reported that we use the line item for the expenses of the issuance of bonds and we did not have any new bonds last year so the amount was lower but this year we are bonding. City Manager Bohenko said if this is not allowed we would roll the issuance costs of bonds into the bond.

Councilor Novelline Clayburgh asked City Manager Bohenko if he is uncomfortable with this. City Manager Bohenko stated that it is a difficult question to answer and would not have put the funding request in the budget unless he thought it was needed. The funds stay with debt service.

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.

Councilor Smith moved to amend Resolution #5 by reducing \$10,000.00 from Capital Outlay – Jones Avenue. Seconded by Councilor Kennedy and voted.

Councilor Smith moved to amend Resolution #5 by reducing \$37,500.00 from Capital Outlay – Capital Contingency. Seconded by Councilor Kennedy.

Councilor Dwyer stated that she would not support the motion. She said that is a 2% contingency on construction items and does not want to have to come back to the City Council if there is a problem with the project.

Councilor Coviello said he deals with Municipalities on projects and they try to stretch the dollar as much as they can and that 2% probably is not enough with construction costs.

Assistant Mayor Lister said he would support the motion because of the history with projects in the City.

Councilor Thorsen said he would support the motion and does not feel the funds are necessary.

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.

Councilor Lown moved to amend Resolution #5 by reducing \$68,000.00 from the Police Department. Seconded by Councilor Coviello.

Councilor Lown said he does not mean to diminish the work of the Police Department and it is not personal. He said overtime costs are too high with a proposed \$400,000.00 in overtime costs. Councilor Lown also addressed the increase costs with retirement. He advised the City Council that he met with both Chief Ferland and Chief LeClaire and they felt that this matter should have been brought up sooner. He said that this is a policy decision for the City Council. Councilor Lown stated that he understands that the Police Department may eliminate the downtown patrols and the Fire Department would move \$80,000.00 from the overtime budget to the salary line item.

Councilor Coviello said he agrees with the motion but disagrees with Councilor Lown's comments. He stated that he does not have evidence that the Police and Fire Departments overtime is being abused and the Matrix Report said that overtime was not being abused. Councilor Coviello also stated that he does not know how the Fire Department will achieve the goal of moving the \$80,000.00 into the salary line item.

Assistant Mayor Lister said he does not support this motion and would not support any cuts in any of the 4 major departments. He said that Councilor Lown bringing this amendment up at the eleventh hour is cruel to do so to the Police and Fire Departments. He suggested speaking with both chiefs at the table to find out how to handle overtime costs.

Councilor Kennedy stated she does not feel it was in poor taste for Councilor Lown to bring the reductions forward. She felt it was the only time to do so because of the process. She asked the Police Department what the overtime is based on. She further stated that the Fire Department overtime is based on 2 employees with major medical issues and 1 employee is overseas fighting for our country.

Councilor Smith moved to suspend the rules in order to allow Chief Ferland to speak. Seconded by Assistant Mayor Lister and voted.

Chief Ferland explained overtime costs and how they are spent. He spoke to the officers having to attend court, the investigation of crime scenes, there are 3 injured officers currently, and that they do not cover 1 for 1. Chief Ferland also reported that there are 3 officers in the National Guard or reserves and 1 on deployment.

Councilor Novelline Clayburgh said she would not support the motion and she agrees with comments made by Assistant Mayor Lister that the Fire and Police Chief should have been prepared earlier but we can bring forward amendments at any time and agrees with Councilor Lown bringing it forward at this time. She said 10 years ago the overtime was 10% of the budget and there have been efforts to reduce overtime over the years. She said in reviewing the Matrix Report it states that overtime needs to be reduced gradually and the best way is through attrition.

Councilor Dwyer said she is opposed to the motion and that the Matrix Report indicates that the Police Department manages overtime well with existing contracts. She stated she does not agree with City Councilors going to department heads individually to discuss these matters.

Councilor Smith said he would not support the motion and spoke to various events that initiate overtime.

Councilor Thorsen said he does not feel that Councilor Lown was working behind the lines with this matter. He said the City Council has to ask questions and make decisions. He stated that it is not the City Council duty to line item this budget and that is the point the Council is getting to. He further stated that the Council is required to make an appropriation. Councilor Thorsen said he is very concerned with the tax rate and does not feel it should increase.

Councilor Kennedy stated that she is torn on this motion and feels that the overtime issues will take time to resolve.

Mayor Spear passed the gavel to Assistant Mayor Lister.

Mayor Spear asked City Attorney Sullivan to speak to whether the City Council has the authority to specify a dollar amount. City Attorney Sullivan said the Police and Fire Departments can look into the budget and there is a process we follow. He said the process is with Budget Resolutions brought forward this evening and do not allow for a line item amount for overtime.

Assistant Mayor Lister returned the gavel to Mayor Spear.

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.

Councilor Lown said he would not make a motion to reduce the Fire Department due to his discussion with the Fire Chief that he would move the \$80,000.00 in overtime into the salary line item in order to not pay the overtime rate.

Councilor Novelline Clayburgh moved to suspend the rules in order to allow Fire Chief LeClaire to address the Council. Seconded by Councilor Kennedy and voted.

Fire Chief LeClaire said in the past dealing with long term vacancies they hire a fire fighter on a short term basis. He said the employees could come back or not, usually there is a retirement which evens out the numbers. In order to address a long term vacancy the department would hire another fire fighter. Chief LeClaire stated that the department will fill long term vacancies at straight time.

Councilor Kennedy moved to amend Resolution #5 by reducing \$292,800.00 from the General Fund Expenditures. Seconded by Councilor Novelline Clayburgh for discussion purposes.

Councilor Kennedy said it is time to look at positions and does not feel we need to add 7 new positions.

Councilor Novelline Clayburgh stated that she seconded the motion for discussion but would not support the motion. She said we have been at a 0% budget the last two years and these proposed positions are necessary.

Councilor Coviello said he does not know where Councilor Kennedy is referring to 7 new positions.

City Manager Bohenko reported that in FY10 we had 712 employees, this year 670 and we still have a reduction of 42 employees.

Councilor Dwyer said it is clear the amount mentioned is not the amount related to the positions but an arbitrary average. She also stated that during our budget work sessions in the last 6 weeks there were no questions asked about these positions.

Councilor Lown said if the motion was to pass it would mean that the 4 positions for the School Department would not be added and that is unacceptable to him.

Councilor Thorsen asked if there is any middle ground so at least part of Councilor Kennedy's concerns could be addressed. He said he feels that Councilor Kennedy's motion was appropriate because it specifies a dollar amount.

Councilor Coviello said that this would set a precedent in future budgets. He said it is okay to say if a department can manage with less personnel and the loss of the person in the Planning Department was tried and did not work.

Councilor Smith said he is proud of being on this City Council and working on saving the taxpayers dollars. He would not support the motion and stated that the 4 positions are needed from the School Department, the person for the Planning Department is also needed. He spoke to the combining of a position in the Parking and Transportation Department not working and Fire Chief LeClaire has stated his need for the Fire Inspector.

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.

Councilor Kennedy moved to amend Resolution #5 by adding \$50,000.00 to the General Fund Expenditures for elderly expenses. Seconded by Councilor Smith.

Councilor Kennedy said \$50,000.00 is a minor amount for the elderly needing a place in the area for their activities. Assistant Mayor Lister spoke in favor of the motion and that the City needs to support and has an obligation to take care of the seniors.

Councilor Novelline Clayburgh said she would not support the motion because the Council needs to review the report before funding is put in place. She stated that the report is anticipated to be out on Wednesday. She spoke to the activities available for our seniors presently. She said she would rather concentrate on the construction of a senior center.

Councilor Coviello stated that he feels a verbal commitment is fine. Councilor Dwyer said she agreement that a verbal commitment is fine.

Councilor Smith said he makes the verbal commitment to the seniors and that they have the support of the City Council. He encouraged City Manager Bohenko to provide temporary programs for the seniors.

Councilor Thorsen said if we are going to spend funds he would support it but if we are not going to spend funds we should not put it in the budget.

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.

Councilor Thorsen moved to amend Resolution #5 by reducing \$390,000.00 with funds coming from Unassigned Fund Balance. Seconded by Councilor Kennedy.

Councilor Thorsen stated that this would reduce the bottom line of the budget.

City Manager Bohenko spoke to this being a policy decision and would not recommend this motion and that funds should not be used for reoccurring expenditures.

Councilor Thorsen said he brings this forward because in the last couple years we had a flat budget but we have not. He said throughout the year time to time we spend money and he feels when you go into unassigned fund balance you are negating the budget passed.

Councilor Lown said he appreciates the efforts by Councilor Thorsen but does not feel we should pass the motion. He spoke to the City's bond rating and how it recently resulted in bond premiums.

Councilor Smith thanked Councilor Thorsen for trying to be creative but said he agrees with Councilor Lown and his comments regarding our bond rating. He said in the future perhaps the Council could look at the Municipal Fund Balance Ordinance and fine tune it and place a ceiling on the amount of unassigned fund balance. He also suggested looking at the City Charter to make sure the terminology is updated. Councilor Thorsen stated that he would not ask for a number less than 10%.

Discussion followed on the motion and City Manager Bohenko explained unassigned fund balance.

Mayor Spear ruled Councilor Thorsen's motion out of order. Mayor Spear stated that the motion should specify which budget the reduction would come from. Councilor Thorsen said he disagrees that the motion is out of line. Councilor Kennedy also said that she does not agree with Mayor Spear ruling of the motion being out of order.

Councilor Smith said he does not agree with Councilor Thorsen's motion but does believe it is in order. He asked City Attorney Sullivan to rule on this matter. City Attorney Sullivan stated by Charter the budget is required to be a detailed picture of the City's finances and the departments know what they are suppose to do. He feels that the motion would be impossible to do so.

Councilor Thorsen moved to amend Resolution #5 by reducing \$390,000.00 from the Capital Improvement Plan. Seconded by Councilor Kennedy.

Councilor Thorsen said it would come out of the budget and each line item of the Capital Improvement Plan would be addressed.

Councilor Coviello said you are forcing the City Council to have individual votes on every one of the CIP projects and he does not understand the reason why. He said this is not a good way to run an entity. He said that Councilor Thorsen should go through the CIP and pick the projects he wants to reduce to the \$390,000.00.

Assistant Mayor Lister stated that the Council has had several meetings on the CIP and were given opportunities to ask questions and the City Council did not and he is not in favor of the amendment.

Councilor Kennedy said the ultimate goal is to cut the budget. She said we have all heard from the residents that there needs to be some changes. She stated that they are requesting some relief. Councilor Kennedy said she feels we are living beyond our means.

Councilor Novelline Clayburgh said she would not support the motion. She said we examined the CIP very closely and the commitment was made months ago. She stated that she disagrees with Councilor Kennedy and her comments. She stated that there were residents that said they did not mind spending more money for the services and programs provided in the City and the Council needs to listen to both sides.

Councilor Coviello stated he does not know what he is voting for and where the cuts would be made and to which projects.

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.

Councilor Thorsen stated that he is trying to reduce the tax rate because residents have asked that he do so. He said the Council needs to address the real needs of the departments are based on financially structural matters.

Councilor Thorsen moved to amend Resolution #5 by reducing the Fund Balance by \$250,000.00. Seconded by Councilor Kennedy.

City Manager Bohenko explained that 77% of revenues come from property taxes and the difference between revenues and expenditures. A discussion followed regarding the policy of fund balance.

Councilor Thorsen withdrew his motion and Councilor Kennedy the second to the motion.

Councilor Thorsen moved to amend Resolution #5 by instructing the City Manager to use \$250,000.00 from Committed Fund Balance – Debt Service Reserves. Seconded by Councilor Kennedy.

Assistant Mayor Lister said he agrees with Councilor Coviello that amendments should target specific items.

Councilor Kennedy said she supports the motion and would like to see a reduction in the tax rate.

City Manager Bohenko advised the City Council that rating agencies look at the City's liability and funds to see a certain amount has been set aside in reserves.

Councilor Kennedy asked if agencies look more at committed or unassigned fund balances. City Manager responded that they look at the overall fund balances.

Finance Director Belanger stated that the City does not use more than 10% of debt service. She said the rating agencies utilize the overall fund balances. City Manager Bohenko spoke to our financial situation and bond rating in 1993 and that it took the City a long time to turn that around.

Mayor Spear passed the gavel to Assistant Mayor Lister.

Mayor Spear said we should reduce the budget if we want by reducing expenditures.

Assistant Mayor Lister returned the gavel to Mayor Spear.

Councilor Novelline Clayburgh discussed the importance of a stable budget.

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.

At 9:45 p.m., Mayor Spear declared a brief recess. At 10:00 p.m., Mayor Spear called the meeting back to order.

Councilor Thorsen moved to amend Resolution #5 by reducing \$100,000.00 from Rolling Stock. Seconded by Councilor Kennedy.

Councilor Thorsen stated that he would leave the reduction of items from Rolling Stock at the discretion of City Manager Bohenko.

Councilor Lown spoke to there not being any appropriation for Rolling Stock last year and the concern not to wait too long in the replacement schedule of stock.

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.

Councilor Thorsen discussed health insurance benefits.

Councilor Thorsen moved to amend Resolution #5 by reducing \$587,000.00 from the General Fund Expenditures which represents 1% of salaries and benefits across all departments. Seconded by Councilor Kennedy.

Councilor Thorsen stated that this is a structural issue and every year the departments bring back funds from savings in salaries and benefits and that this would allow for more accuracy.

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.

Councilor Coviello moved to amend Resolution #5 by reducing \$60,000.00 from the Police Department. Seconded by Councilor Kennedy.

Councilor Coviello stated he would like to see reduction sooner than through the attrition process.

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

- Resolution #6-2012 – Municipal Fees

Councilor Coviello moved to adopt Resolution #6 – Municipal Fees. Seconded by Councilor Smith and voted.

- Resolution #7-2012 – Sewer Fund Expenditures

Councilor Coviello moved to adopt Resolution #7 – Sewer Fund Expenditures. Seconded by Assistant Mayor Lister.

Councilor Kennedy moved 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. Seconded by Councilor Thorsen.

Councilor Kennedy stated that the rates should remain the same as last year. She spoke to the increase in costs to the residents with the higher rates.

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.

- Resolution #8-2012 – Water Fund Expenditures

Councilor Novelline Clayburgh moved to adopt Resolution #8 – Water Fund Expenditures. Seconded by Councilor Dwyer.

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.

- Resolution #9-2012 – Special Revenues and Committed Fund Balances for Necessary Expenditures

Councilor Novelline Clayburgh moved to adopt Resolution #9 – Special Revenues and Committee Fund Balances for Necessary Expenditures. Seconded by Councilor Coviello.

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

- Resolution #10-2012 – Investment Policy

Councilor Smith moved to adopt Resolution #10 – Investment Policy. Seconded by Councilor Coviello.

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

City Manager Bohenko announced that the tax rate would increase by \$.34.

X. CONSENT AGENDA

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

- 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 requests)

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)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. 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

City Manager Bohenko reported that Mr. Grazier will work with Reverend Shippee regarding performances in front of the North Church.

Councilor Smith moved to refer to the City Manager with power. Seconded by Councilor Novelline Clayburgh and voted.

- B. 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

City Manager Bohenko reported that this is a temporary sign during the construction in the area.

Councilor Kennedy moved to refer to the City Manager with power. Seconded by Councilor Smith and voted.

- C. 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

City Manager Bohenko said he would recommend that the request to contribute with the cost of the design charrette should come from the contingency fund, if approved by the Council.

Councilor Coviello moved to refer to staff for report back and recommendation. Seconded by Councilor Novelline Clayburgh and voted.

- D. 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

Councilor Novelline Clayburgh moved to refer to the City Manager with power. Seconded by Councilor Kennedy and voted.

- E. Letter from Stephen Kelm requesting an easement from the City to access his property at 80 Wright Avenue

Councilor Coviello recused himself on this matter.

Councilor Lown moved to refer to the Planning Board for report back. Seconded by Assistant Mayor Lister and voted. Councilor Coviello abstained from voting.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Proposed Approval of the Portsmouth School Custodians Local 1386 of the American Federation of State, County and Municipal Employees (AFSCME) Tentative Agreement

City Manager Bohenko announced that this contract expires on June 30, 2014.

Assistant Mayor Lister moved 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. Seconded by Councilor Novelline Clayburgh.

Councilor Thorsen said he is opposed because of general principles with income of residents going down.

Councilor Dwyer stated that there have been no COLA adjustments for the last 3 years and it is hard to ascertain that no residents have received wage increases.

Motion passed with Councilors Coviello and Thorsen voting opposed.

2. Proposed Approval of Contract for Deputy Fire Chief Carl Roediger

Councilor Smith moved to approve the Employment Agreement between the Portsmouth Fire Commission and Carl F. Roediger, Deputy Fire Chief. Seconded by Councilor Kennedy.

Councilor Coviello said he would oppose the motion because of some language contained in the Employment Agreement regarding the transition between chief's and the payment.

Motion passed with Councilors Coviello and Thorsen voting opposed.

3. Request to Establish a Work Session Re: Parking Omnibus Proposal

City Manager Bohenko requested the City Council to conduct a Work Session on Monday, June 18, 2012 at 6:30 p.m. on the Parking Omnibus Proposal.

Councilor Smith moved to establish a work session on Monday, June 18, 2012 at 6:30 p.m., regarding the parking omnibus proposal. Seconded by Councilor Thorsen and voted.

4. Request for Authority to Submit Economic Revitalization Zone Application

City Manager Bohenko reported that the Economic Development Commission has reviewed the 3 Economic Revitalization Zones in the City at Pease Tradeport, Commerce Way and at High Liner Avenue. The Commission also discussed other areas in the City that might qualify for designation under this State authorized business retention tool. City Manager Bohenko also advised the Council that the EDC unanimously voted to recommend that an ERZ application be submitted to the State for Heritage Avenue and Constitution Avenue.

Councilor Dwyer moved 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). Seconded by Councilor Smith.

Councilor Dwyer spoke to the ERZ helping to expand businesses.

Motion passed.

5. Proposed Amendments to the Zoning Ordinance Re: Off-Street Parking Standards in the Downtown Overlay District

City Manager Bohenko reported that this keeps with our omnibus schedule and will appear on the June 11th City Council meeting for first reading.

Councilor Novelline Clayburgh moved 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. Seconded by Councilor Smith.

Councilor Thorsen said that the Council should treat this proposed amendment carefully.

Planning Director Taintor provided a brief explanation of the ordinance amendment to the City Council.

Councilor Kennedy moved to amend the motion and have a synopsis created on parking downtown and what this proposed change would mean overall. This motion received no second.

City Manager Bohenko stated that first reading would be on June 11th and a Work Session for discussion of the proposed amendment would take place on June 18th.

Motion passed.

6. 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

City Manager Bohenko requested that City Attorney Sullivan address this matter.

City Attorney Sullivan reported that the middle school property survey discovered a discrepancy between the fence line around the property. He stated that the MacDonald Trust and 82 Court Street LLC wish to acquire from the City the small wedges of City-owned land that lie outside the fence line and are adjacent to their respective parcels.

In addition, on May 8, 2012, the Portsmouth School Board unanimously voted that the small areas of land requested by the MacDonald Trust and 82 Court Street LLC were no longer needed for school purposes, and voted to transfer care, control and custody over to the City of Portsmouth. City Attorney Sullivan reported that the Planning Board recommended action would be for the Council to approve the request to convey the land to the Arthur MacDonald Trust and 82 Court Street LLC, and to join in an application to the Planning Board for a lot line revision.

Councilor Smith moved 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. Seconded by Councilor Coviello and voted.

City Manager's Informational

3. *Senior Housing Inventory*

City Manager Bohenko spoke to the Senior Housing Inventory that is in the Council packet at the request of Councilor Dwyer.

Mayor Spear passed the gavel to Assistant Mayor Lister.

Mayor Spear discussed expanding the area where assisted living is permissible.

Mayor Spear moved to request that the Planning Board review the Zoning Ordinance Table of Uses and Zones to expand where assisted living facilities can be located. Seconded by Councilor Novelline Clayburgh.

Councilor Dwyer stated that the Planning Board could do a conditional use or a PUD with other restrictions as they move along in the process.

Councilor Novelline Clayburgh said that the City Council needs to ensure the new facilities take Medicare or Medicaid.

Councilor Dwyer reported that we are looking at the issues, not a project. She also stated that Portsmouth has a growing senior population.

Motion passed with Councilors Kennedy and Novelline Clayburgh voting opposed.

Assistant Mayor Lister returned the gavel to Mayor Spear.

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:

B. MAYOR SPEAR

1. *Reports

C. COUNCILOR NOVELLINE CLAYBURGH

1. *Report on Elderly Services

D. COUNCILOR KENNEDY

1. *Report on Elderly Services

E. COUNCILOR COVIELLO

1. *Bike Corrals

F. COUNCILOR COVIELLO AND COUNCILOR DWYER

1. City Council Rule 23 – Committee Nominations

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

At 11:10 p.m., Councilor Coviello moved to adjourn. Seconded by Councilor Novelline Clayburgh and voted.



Kelli L. Barnaby, CMC/CNHMC
City Clerk