

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, JUNE 25, 2012

PORTSMOUTH, NH
TIME: 6:00 PM [or thereafter]

At 5:45 p.m., an Anticipated "Non-Meeting" with Counsel was held regarding Negotiations – RSA: 91-A:2, I (b-c).

At 6:00 p.m., a Work Session was held regarding the Sale or Ground Lease of the Connie Bean Center.

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

Mayor Spear called the meeting to order at 7:40 p.m.

II. ROLL CALL

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

Absent: Councilor Novelline Clayburgh

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

Councilor Kennedy led the Pledge of Allegiance to the Flag.

PRESENTATION

1. *Art-Speak State of the Arts Report

Robin Albert and Liz Wright provided a presentation on the State of the Arts Report for 2011. Ms. Albert and Ms. Wright extended their thanks to the City for their assistance and support with the arts and culture of the City. A report was provided of various activities which occurred in 2011 and those that will be coming forth in 2012. In closing, Ms. Albert and Ms. Wright reported to the City Council that \$41.5 million dollars was spent in 2011 in the City of Portsmouth for arts and culture.

V. ACCEPTANCE OF MINUTES – MAY 14, 2012 AND MAY 21, 2012

Councilor Smith moved to approve and accept the minutes of the May 14, 2012 and May 21, 2012 City Council meetings. Seconded by Councilor Kennedy and voted.

VI. PUBLIC COMMENT SESSION

Tom Carroll spoke in support of the City joining in the Coalition of Great Bay Area communities filing suit against the State of New Hampshire and the NH Department of Environmental Services, regarding the Great Bay Estuary exposure to unnecessary multimillion-dollar wastewater treatment costs.

Arthur Clough spoke opposed to the new hours of City Hall.

City Manager Bohenko reported that the change in hours of City Hall is a Pilot Program and was a request of the residents and City Council. He said at the end of August the Program would be re-evaluated.

Councilor Dwyer moved to suspend the rules in order to take up Item XII A.4. – Art-Speak Annual State of the Arts Report and Memorandum of Understanding Renewal Request. Seconded by Assistant Mayor Lister and voted.

XII A.4. Art-Speak Annual State of the Arts Report and Memorandum of Understanding Renewal Request

City Manager Bohenko recommended the extension of the Memorandum of Understanding for Art-Speak Annual State of the Arts Report.

Councilor Smith moved to authorize the City Manager to extend the agreement from July 1, 2012 through June 30, 2013. Seconded by Assistant Mayor Lister and voted.

VI. PUBLIC HEARING

A. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, ARTICLE 11, SECTION 10.1115 – OFF-STREET PARKING PROVISIONS IN THE DOWNTOWN OVERLAY DISTRICT. THE RECOMMENDED AMENDMENT WOULD MAKE THE FOLLOWING CHANGES TO THE ZONING ORDINANCE:

- ELIMINATE OFF-STREET PARKING REQUIREMENT FOR ALL NONRESIDENTIAL USES
- CHANGE THE RESIDENTIAL PARKING REQUIREMENT TO 1.5 PARKING SPACES PER DWELLING UNIT
- ELIMINATE THE OPTION TO MAKE A PAYMENT IN LIEU OF PROVIDING REQUIRED OFF-STREET PARKING

Mayor Spear read the legal notice, declared the public hearing open and called for speakers.

Doug Bates, Chamber of Commerce President, expressed concern with removing tools from the tool box and that the proposed amendment would do that. He said parking is a concern and small retailers are feeling the pain with the high cost of rents downtown. He urged the City Council to give this ordinance amendment a great deal of thought before any decision is made.

Shaun Rafferty said he agrees with the comments made by Mr. Bates. He stated that parking needs to be considered as a whole. He expressed concern with this change and impact. He said a public hearing would allow residents to ask questions of the City Council. Mr. Rafferty requested another public hearing be held by a non-partial organization such as Portsmouth residents to allow more dialogue.

With no further speakers, Mayor Spear declared the public hearing closed.

VII. APPROVAL OF GRANTS/DONATIONS

- A. *Acceptance of Donation Re: Bench in Memory of Marian Marangelli

Councilor Coviello moved to approve and accept the donation, as presented. Seconded by Councilor Kennedy and voted.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 11, Section 10.1115 - Off-Street Parking Provisions in the Downtown Overlay District. The recommended amendment would make the following changes to the Zoning Ordinance:
- Eliminate Off-Street Parking Requirement for all Nonresidential Uses
 - Change the Residential Parking Requirement to 1.5 Parking Spaces per Dwelling Unit
 - Eliminate the Option to make a Payment in Lieu of providing Requirement Off-Street Parking

City Manager Bohenko said at the June 18, 2012 Council Work Session it was discussed to make a change for hotels and their parking requirements. He reported to the City Council that they have provided a change in the table to reflect that change. City Manager Bohenko explained the options available to the City Council. He stated if the amendment is done, it would require another public hearing at the July 16, 2012 City Council meeting.

Councilor Coviello moved to amend the Ordinance as reflected in the table outlined in the City Manager's Comments dated June 21, 2012 to Section 10.1115.21 and schedule a public hearing and second reading at the July 16, 2012 City Council meeting to reflect the amendment. Seconded by Councilor Lown.

Table – Section 10.1115.21

Use	Required Parking Spaces
Restaurant	1 space per 100 square feet GFA
Other ground floor uses	No requirement
Other upper floor uses (residential and nonresidential)	1 space per 1,000 square feet GFA
Residential use (dwelling)	1.5 space per dwelling unit
Hotel or motel	0.75 space per guest room
Other nonresidential use	No requirement

Councilor Dwyer stated that she supports the motion and feels the amendment is a reasonable choice. She said it is important at the July 16, 2012 City Council meeting that we explain how this would affect the other aspects of parking. She said the Council needs to look at how these changes interact with the other parking changes the Council is considering.

Councilor Thorsen said the amendment is an appropriate adjustment. He stated that the City is unique with many functions and that we are a destination community.

Planning Director Taintor reviewed the ordinance with the City Council. Discussion followed regarding hotels and parking.

Councilor Dwyer reported that the Economic Development Commission reviews the occupancy rate of hotels per month and it meets 75% in peak months.

Councilor Kennedy stated that she does not want to see residents having to pay for parking.

Councilor Thorsen asked what constitutes a hotel. Planning Director Taintor stated the number of rooms.

Motion passed.

X. CONSENT AGENDA

Mayor Spear removed Item A – Acceptance of Donations Re: Welcome Home, Iraq Veterans Parade from the Consent Agenda.

- A. *Acceptance of Donations Re: Welcome Home, Iraq Veterans Parade
 - Georgene E. & Jonathan W. Damon - \$25.00
 - Thomas H. Kyle - \$25.00
 - Kelly C. Decourcy - \$25.00
 - Brian E. Engel - \$25.00
 - Sharon Nichols - \$50.00

- AJ Muste Chapter (#62) Veterans for Peace - \$100.00
- Judith E. & Francis H. Breen - \$100.00
- CVMA-NH Chapter 5-1 - \$100.00
- Jennifer L. Zorn - \$100.00
- Veterans for Peace Chapter 9
 General Smedley D. Butler Brigard - \$100.00
- Alfred J. Arcici - \$100.00
- Geno's Chowder & Sandwich Shop, Inc. - \$100.00
- Petersen Engineering, Inc. - \$100.00
- Northeast Credit Union - \$250.00
- Service Credit Union - \$250.00
- 106 Grill, LLC d/b/a/ Moxy - \$300.00
- Dos Amigos Burritos, LLC - \$350.00
- JJFC, Inc. d/b/a Jumpin' Jay's Fish Café - \$350.00
- Piscataqua Savings Bank - \$500.00
- Flatbread Portsmouth - \$558.25

Councilor Smith moved to accept the donations for the Welcome Home, Iraq Veterans Parade, as presented. Seconded by Assistant Mayor Lister.

Assistant Mayor Lister announced that the Parade would be held on July 8, 2012 at 2:00 p.m.

Councilor Smith reported that following the parade there would be mini-tents for a job fair set up at City Hall to assist veterans.

Motion passed.

CONSENT AGENDA

- B. Request for License from Valerie White, owner of Bobbles and Lace for property located at 103 Vaughan Mall 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 Valerie White, owner of Bobbles and Lace for 1 projecting sign at property located at 103 Vaughan Mall 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 Georgia Hughes, owner of Georgia's Spa Boutique for property located at 90 Fleet 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 Georgia Hughes, owner of Georgia's Spa Boutique for 1 projecting sign at property located at 90 Fleet 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**

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

Councilor Kennedy requested to remove Item D. - Letter from Caitlyn Mosher Ellis, Alzheimer's Association, requesting permission to hold the annual Walk to End Alzheimer's at Strawberry Banke on Saturday, September 22, 2012 from the Consent Agenda.

- D. Letter from Caitlyn Mosher Ellis, Alzheimer's Association, requesting permission to hold the annual Walk to End Alzheimer's at Strawberry Banke on Saturday, September 22, 2012 **(Anticipated action – move to refer to the City Manager with power)**

Councilor Kennedy stated that there are many concerns with walks in the South End. She stated that there is construction during the week and on the weekends many residents are unable to run errands because of these walks or runs. She requested that this event be moved out of the South End.

City Manager Bohenko stated if the City Council denies the request he would go back to the Alzheimer's Association to have them look at another date and route.

Councilor Thorsen asked if construction would still be occurring during September 22nd. Deputy Public Works Director Allen said the water and sewer project should be completed by August and prior to Labor Day in September.

Assistant Mayor Lister said he would like to approve the request this year but if there are issues the date could be changed. City Manager Bohenko stated once the request is approved the organization would start advertising.

Councilor Kennedy stated if this event is approved, the Council needs to consider blocking streets with signage along the route with a change of direction.

City Manager Bohenko said we have great organizations that we work with to hold events in the community and they do great work. He reported that the Council may see him bring forward recommendations in the future to deny requests in the South End. He also indicated in the future he would try to get organizations to try to work with other routes.

Councilor Smith said he would vote to deny the request. He said it is due to the condition of the streets. He would suggest that they come back with a new route.

On a roll call 3-5, motion to refer to the City Manager with power *failed* to pass. Councilor Coviello, Lown and Dwyer voted in favor. Assistant Mayor Lister, Councilors Kennedy, Smith, Thorsen and Mayor Spear voted opposed. *By action of the City Council the City Manager will inform the Alzheimer's Association that the request has been denied and recommend they choose another date and route for the walk.*

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

(There are no items under this section of the Agenda)

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Conveyance from Service Credit Union to the City of Land for a Connector Road between Land and Longmeadow Roads, and Reciprocal Drainage Easement

City Manager Bohenko explained that this is for a conveyance to the connector road for the Service Credit Union. He also spoke to the request for a reciprocal drainage easement.

Councilor Smith moved to accept the land for the connector road and authorize the City Manager to execute the necessary deeds for the conveyance and easement. Seconded by Councilor Coviello and voted.

2. Sale or Ground Lease of Connie Bean Center

City Manager Bohenko outlined the options available to the City Council and stated that a direction on moving forward is being requested of the Council by the staff. He also noted that a ground lease would take time to create.

Councilor Lown moved to authorize the City Manager to negotiate and execute the sale with appropriate covenant restrictions in the deed. Seconded by Councilor Coviello.

Councilor Lown stated he feels that the advantage goes to a sale from a financial point of view. He addressed finance issues that may stem from residential ground lease. He indicated that the City can retain control just as well with covenants in the deed as it can with a long-term ground lease.

Councilor Coviello asked if this has had a public hearing. City Manager said a public hearing is handled through the Planning Board process.

Discussion followed regarding the differences between a sale and a long-term ground lease as well as what covenants would mean. Assistant City Attorney Woodland stated that covenants can create issues with clear title. She also addressed when you move from a more typical deed you would change the financing of the project.

Councilor Thorsen stated that the City Council needs to decide whether they want to allow residential use of the property. Assistant City Attorney Woodland stated that is a policy decision of the Council.

Councilor Coviello said the City Council needs to make a decision based on historical preservation. He said the land issue in general is a different matter.

Councilor Kennedy stated that she disagrees with the motion. She said the property could change the look of the downtown. She also said that this is not about money.

Mayor Spear asked if the City Manager would come back to the City Council with covenants for approval. City Manager Bohenko said he would come back with the covenants and the vehicle for the sale of the property.

Councilor Dwyer said we have the control to one of the gateways into the City, and it baffles her why would we give that up. She stated she wants the City to have the options without going through eminent domain to control the property.

Councilor Smith said he would oppose the motion. He said we need to know what developers are looking for with this property. He said the Council needs to see what the RFP's show. He said we need to think ahead for future City Councils.

Councilor Thorsen said on the lease side the City Council would have the option but that is not what the motion says.

Councilor Lown moved to amend the motion by adding the requirement of the City Manager to come back before the City Council with any proposed sale. Seconded by Councilor Thorsen.

Councilor Dwyer asked if the Planning Board held a hearing on this matter. City Manager Bohenko stated that a public hearing was not held by the Planning Board. Councilor Dwyer expressed concern with no public hearing on this matter being held and feels that the public should be provided with an opportunity to express their views on the matter.

Mayor Spear said as part of a public hearing we would allow input from the residents on this matter.

Assistant Mayor Lister said it is important for the City Council to preserve the gateway into the City. He said he feels strongly on this matter and the City Council should retain control of the building by a ground lease.

Councilor Coviello said it is inappropriate to have a public hearing on this matter after we vote in covenants. He suggested tabling this matter.

Councilor Lown said the City Council is not talking about keeping the Connie Bean Center. He said it is a non-revenue making building and the question is whether we dispose of the building via lease or sale.

Councilor Dwyer stated her interest is in controlling the land and not the building. She stated we want to control the area.

Councilor Thorsen said we used the Connie Bean Center as a basis for the building of the new Recreation Facility. He said if a public hearing is held on this matter, we should postpone this vote until we do that.

Councilor Coviello moved to postpone action on this matter and hold a public hearing at the July 16, 2012 City Council meeting on the disposition of 143 Daniel Street (Connie Bean Center) by sale or long-term ground lease. Seconded by Councilor Thorsen and voted.

3. Renewal of Transportation Agreement Re: Mark Wentworth Home d/b/a/
Wentworth Connections

City Manager Bohenko recommended the renewal of the Transportation Agreement by the Council.

Councilor Smith moved to renew the Transportation Agreement, as presented. Seconded by Councilor Coviello.

Councilor Lown asked what the use of the van is. City Manager Bohenko reported that there is a large call for its use. He stated that we may need to add more than 3 days a week operation. City Manager Bohenko said it is a life line for seniors and any demand activated service is expensive at this time. City Manager Bohenko advised the City Council that Wentworth Connections just attained a grant for a new van with the assistance of the City writing the grant.

Councilor Smith asked where the \$125,000.00 of funding comes from. City Manager Bohenko reported it is from parking revenues.

Councilor Coviello said it is less expensive to offer this service and that there is a large need for the service.

Councilor Kennedy said that the seniors do pay as well for the service. She urged the City Council to approve the renewal of the agreement. She also stated that the City should provide more financial support than just the \$125,000.00 for the seniors.

City Manager Bohenko reported, in response to Councilor Lown's question that 141 people have utilized the service. He also advised the City Council that Portsmouth Regional Hospital has provided \$10,000.00 in transportation funding for seniors and that we are one of the only cities that provide this service in surrounding communities.

Motion passed.

5. Request to Establish City Council Retreat

City Manager Bohenko stated that this would establish a City Council Retreat in September.

Councilor Dwyer moved to establish a City Council Retreat on September 22, 2012. Seconded by Councilor Smith.

Councilor Kennedy advised the City Council that September 22nd is the date of the Fishtival and that September is difficult for her. She suggested scheduling something in October.

City Manager Bohenko stated that City Council members wanted a date in September.

Councilor Dwyer withdrew her motion and Councilor Smith his second to the motion.

City Manager Bohenko stated he would come back to the Council with recommended dates for an October Retreat.

6. Report Back Re: Dennett Street

City Manager Bohenko reported that the Planning Board has reviewed the request and is recommending moving forward with the agreements.

Councilor Smith moved to accept the report back from the Planning Board and, further, authorize the City Manager to execute any appropriate agreements. Seconded by Councilor Coviello and voted.

B. MAYOR SPEAR

Mayor Spear read a letter to the City Council from the Lord Mayor of Portsmouth, England that was delivered during a recent visit to the City of Portsmouth by the Lord Deputy Mayor of Portsmouth, England. Mayor Spear also gave the Councilors gifts from Portsmouth, England.

1. *Landscaping at City Hall

Mayor Spear said he has received several messages on the appearance of our buildings, including City Hall. He indicated that he has asked City Manager Bohenko to come back to the Council with suggested improvements to our buildings and City Hall.

2. Appointments to be Considered:

Conservation Commission

- Paul Ambrose to the Conservation Commission as an Alternate member
- Shelley Saunders to the Conservation Commission as an Alternate member

Taxi Commission

- Aaron Lawson to the Taxi Commission

Mayor Spear stated that he wanted to create a broader approach to appointments and therefore, has provided a coversheet with the name of the board or commission being requested along with the application and the current membership listing. He requested that the Council bring forward any concerns or thoughts to him at this meeting. Mayor Spear indicated that these appointments will be brought forward at the next Council meeting to be voted on by the City Council.

The City Council considered the appointments of Paul Ambrose and Shelley Saunders to the Conservation Commission as Alternate members and appointment of Aaron Lawson to the Taxi Commission. These appointments will be voted on by the City Council at the July 16, 2012 meeting.

Councilor Kennedy asked if the references used by the applicants should be from the City. Mayor Spear stated that it is not a requirement. He did indicate that we could change the application to state that Portsmouth residents are preferred when listing references.

Councilor Kennedy asked Mayor Spear if he has spoken with the City Council Representative to the Taxi Commission. Mayor Spear said if the City Council Representative has any concerns they could bring them forward at this meeting. Councilor Lown, City Council Representative to the Taxi Commission indicated that Mr. Lawson seems like a qualified applicant.

C. COUNCILOR SMITH

1. Parking and Traffic Safety Committee Action Sheet and Minutes of June 14, 2012

Councilor Smith moved to approve and accept the action sheet and minutes of the June 14, 2012 Parking and Traffic Safety Committee meeting. Seconded by Assistant Mayor Lister.

Councilor Smith reported that there are no ordinance changes required by the actions taken by the Parking and Traffic Safety Committee.

Motion passed. Councilor Kennedy voted opposed.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Kennedy asked Mayor Spear if he had applicants for the Peirce Island Committee to bring forward. Mayor Spear stated that he needs to interview the applicants and will bring names forward at a future Council meeting.

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

At 9:45 p.m., Assistant Mayor Lister moved to adjourn. Seconded by Councilor Coviello and voted.



Kelli L. Barnaby, CMC/CNHMC
City Clerk