

## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, SEPTEMBER 17, 2012

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

At 6:00 p.m., an Anticipated "Non-Meeting" with Counsel was held regarding Negotiations – RSA: 91-A:2, I (b-c).

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

Mayor Spear called the meeting to order at 7:00 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.

### **PRESENTATION**

1. Prescott Park Arts Festival Proposed Public-Private Partnership for Renovations to Pavilion Building in Prescott Park

Ben Anderson, Executive Director of the Prescott Park Arts Festival, began by recognizing the attendance of the full Board of Directors in the audience in support of the proposed Public-Private Partnership for Renovations to the Pavilion Building in Prescott Park. He then gave a brief history of the Prescott Park Arts Festival and reviewed the proposed renovations to the Pavillion Building. He explained that the renovations will bring the facilities up to par with the quality of events that are held at Prescott Park and allow for shorter waiting lines for the restrooms, healthier food choices at the concession and safer and more consolidated storage facilities.

City Manager Bohenko explained that the Arts Festival is looking for direction from the City Council on the support of the public-private partnership with matching funds that would come from the City's Urban Development Action Grant (UDAG) fund. He stated that the Trustees of the Trust Funds are supportive of this proposal and the Festival is looking for a long-term lease agreement with the City regarding the pavilion that would be required to satisfy the award of the Community Development Finance Authority tax credits for this project. These tax credits are contingent upon the Festival obtaining financial support from the City for this project, as well as a lease agreement for a minimum of twenty-five years, similar to the Discover Portsmouth Center in the old library. He concluded by stating that due to timing requirements relative to tax credits for this project and fundraising efforts, the group is seeking support from the City Council on this proposal.

**Assistant Mayor Lister moved to authorize the City Manager to negotiate a 25 year lease with the Prescott Park Arts Festival for the use of the renovated pavilion building at Prescott Park. Motion seconded by Councilor Smith.**

Councilor Dwyer stated this is a great partnership, but is surprised by the CDFA requirement of the City matching funding. Mr. Anderson stated he is unsure of why this is required but clarified that the pavilion is a City building. Councilor Dwyer asked if this was a requirement for the Discover Center. City Manager Bohenko stated that this was accomplished with in-kind services.

Councilor Smith, Assistant Mayor Lister, Councilor Novelline Clayburgh, Councilor Lown and Mayor Spear all thanked Ben Anderson and the Prescott Parks Arts Festival Board for their work and congratulated him on his recent recognition by the Portsmouth Rotary.

**Motion passed.**

**V. ACCEPTANCE OF MINUTES** (*There were no minutes on for action this evening*)

**VI. PUBLIC COMMENT SESSION**

Mayor Spear opened the public comment session.

Sue Polidura distributed a picture of the gravesite of John Langdon and stated that today is Constitution Day. She stated it is appropriate to speak to the condition of Mr. Langdon's burial site on this day as he was a signer of the Constitution. She stated that she is disappointed that this area is not maintained by the City as she feels that people visit Portsmouth for the history as well as the Arts. She provided further historical information of Mr. Langdon and asked that there be a plaque placed to recognize the historical importance of the site hopefully by next Constitution Day.

Seeing no one else wishing to speak, Mayor Spear closed the public comment session.

**VII. PUBLIC HEARING**

- A. RESOLUTION AUTHORIZING A BOND ISSUE OF UP TO ONE MILLION SIX HUNDRED THOUSAND DOLLARS (\$1,600,000.00) TO PAY FOR THE RECONSTRUCTING OF COMMERCE WAY, AND TO PAY FOR ALL COSTS INCIDENTAL AND RELATED THERETO

Economic Development Director Nancy Carmer and Public Works Director Steve Parkinson gave a brief presentation explaining the process described in RSA: 231:28 Conditional Layout for Existing Private Rights of Way, which is a mechanism by which the cost of improvements to a private roadway is financed by a general obligation bond issued by the City and repaid by assessments on the private property owners served by the road with 100% of the bond and road improvement costs being paid by the abutting property owners. The required public hearing was held at the August 20, 2012 City Council meeting and the required 10 day period allowed for abutters to object with no one coming forward to object. The next step is for the City to proceed with solicitation of bids and construction of the proposed road improvements with the road conveyed by deed to the City to become a City street.

Mayor Spear opened the public hearing:

Attorney Malcolm McNeill, representing Commerce Way LLC, stated that this is a mutually beneficial situation and a win/win. He stated this will result in more jobs, higher assessed values and more tax revenue. He stated there have been no abutters that have come forward to speak against the proposal. He concluded by asking the Council to approve the Bond Resolution.

Seeing no one else wishing to speak, Mayor Spear closed the public hearing.

#### **VIII. APPROVAL OF GRANTS/DONATIONS**

*(There are no items under this section of the agenda)*

#### **IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

- A. Resolution Authorizing a Bond Issue of up to Two Million Two Hundred Sixty Seven Thousand Dollars (\$2,267,000.00) for FY13 Citywide, Bridge, Street, and Sidewalk Improvements

**Councilor Smith moved to pass first reading and schedule a public hearing and adoption of a Bond Resolution for Citywide Improvements in the amount of up to \$2,267,000.00 at the October 1, 2012 City Council meeting. Seconded by Councilor Novelline Clayburgh and voted.**

- B. Resolution Authorizing a Bond Issue of up to Five Hundred Thousand Dollars (\$500,000.00) for FY13 School Facilities Improvements

**Assistant Mayor Lister moved to pass first reading and schedule a public hearing and adoption of a Bond Resolution for School Facilities Improvements in the amount of up to \$500,000.00 at the October 1, 2012 City Council meeting. Seconded by Councilor Smith and voted.**

- C. First reading of Various Housekeeping Amendments to the City's Code of Ordinances.
- Chapter 1, Article VI – RESIDENCY REQUIREMENTS – delete in its entirety
  - Chapter 3, Article I, Section 3.111 – HOGS – delete in its entirety
  - Chapter 5, Article I, Section 5.102 – RESIDENTS OF THE CITY – delete in its entirety
  - Chapter 5, Article I, Section 5.103 – AGE LIMIT – delete in its entirety
  - Chapter 6, Article VI – DANCING – delete in its entirety
  - Chapter 9, Article II – SUNDAY ORDINANCES – delete in its entirety

**Councilor Coviello moved to pass first reading and schedule a public hearing and second reading for the proposed amendments, as presented, at the October 1, 2012 City Council meeting, seconded by Councilor Lown.**

Councilor Kennedy stated that it is interesting to see the history of the City through these ordinances and cited several examples of laws that no longer apply that are still on the books. She stated that she is concerned with losing the history of Portsmouth by eliminating these items and not recording them in some way for people to be able to research if they were interested in doing so.

Councilor Dwyer stated she agrees with that idea but feels that the ordinances are meant to be enforceable and should reflect current laws.

Discussion ensued regarding the enforcement of the ordinances and the historical value with the Council consensus to ask City Attorney Sullivan to come back with a suggestion of how to preserve the removed ordinances.

**Motion voted.**

- D. First reading of Ordinance Amendment to Chapter 7, Article I, Section 7.102 – Parking Meter Zones
- Downtown High Occupancy Zone: Parking shall be at the rate of one dollar fifty cents (\$1.50) per hour in the following areas:
    1. Daniel Street, starting at Chapel Street through to Market Square
    2. Bow Street, starting at Chapel Street through to Market Street
    3. Congress Street, starting at Market Square through to Chestnut Street
    4. Pleasant Street, starting from Court Street through to Market Square
    5. Market Street, starting from Moffatt-Ladd House through to Market Square
  - Parking in all other parking meter zones shall be at the rate of one dollar (\$1.00 per hour)

**Councilor Coviello moved to pass first reading, and schedule a public hearing and second reading for the proposed amendments, as presented, at the October 1, 2012 City Council meeting, seconded by Councilor Dwyer.**

Councilors Kennedy, Smith, Thorsen and Assistant Mayor Lister stated they will vote to move this to a public hearing for public input, but are not in favor of the ordinance.

**Motion voted.**

- E. Adoption of Resolution Authorizing a Bond Issue of up to One Million Six Hundred Thousand Dollars (\$1,600,000.00) to Pay for the Reconstructing of Commerce Way, and to Pay for all Costs Incidental and Related Thereto

**Councilor Smith moved that the Resolution Authorizing a Bond Issue of Up to One Million Six Hundred Thousand Dollars (\$1,600,000.00) to pay for the reconstructing of Commerce Way, and to pay for all costs incidental and related thereto is hereby adopted in accordance with its terms; and further moved that no bond should be issued pursuant to the said Resolution until;**

- 1. All right, title and interest in Commerce Way shall have been conveyed by its current owner or owners to the City; and**
- 2. All legal requirements established by state law, including but not limited to RSA 231:28 through RSA 231:33, have been satisfied and an opinion to that effect has been received by the City Manager in written form from the City Attorney**

**Seconded by Councilor Novelline Clayburgh.**

Councilor Lown clarified that the City is bonding the project but the abutters will be incurring the costs of the road improvements.

Councilor Coviello stated that he will be abstaining from this issue.

Councilor Thorsen stated this was reviewed by the Economic Development Commission and the land is private but is being used as a public way. He stated that he feels the properties will assess at better values and the maintenance costs in the future will be covered by that increased value and is win/win.

Councilor Novelline Clayburgh thanked everyone involved stating that this will bring jobs to the City and is an alternative to the Pease Tradeport.

**Motion passed on an 8-0 vote, Councilor Coviello abstained.**

- F. Third and final reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Tanner Court

**Councilor Smith moved to pass third and final reading of the proposed Ordinance amendment. Seconded by Assistant Mayor Lister and voted.**

## **X. CONSENT AGENDA**

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

- A. \*Acceptance of Donations to the Coalition Legal Fund
  - Town of Holderness - \$500.00
  - Town of Jackson - \$250.00

***(Anticipated action – move to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund)***

- B. Letter from Marsie Silvestro, A Safe Place, requesting permission to hold a candle light vigil on Thursday, October 4, 2012 from 6:00 p.m. – 7:00 p.m. at the Vaughan Mall with amplification and a power source for people to speak (***Anticipated action – move to refer to the City Manager with power***)

## **XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Letter from Renee McCune, Portsmouth Lodge of Elks #97, regarding Portsmouth High School students safely running on Jones Avenue

**Councilor Smith moved to refer to the Parking and Traffic Safety Committee for report back (and to the Superintendent of Schools and Recreation Board for informational purposes). Seconded by Councilor Lown and voted.**

## **XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

### **A. CITY MANAGER**

1. Proposed Acceptance of Middle Road Bridge (NH Route 33) over Pan Am Railways

**Councilor Coviello moved to accept the Middle Road Bridge (NH Route 33) over Pan Am Railways project. Seconded by Councilor Novelline Clayburgh and voted.**

2. Proposed Amendments to the Zoning Ordinance Related to the Historic District

**Councilor Kennedy moved to refer to the Planning Board for a report back to Council, seconded by Councilor Thorsen.**

Councilor Coviello stated that there needs to be definitions included.

Councilor Kennedy explained that this process is ongoing and is being put in place for consistency in the zoning ordinance and to alleviate the caseload of the Historic District Commission and allow the Board to review larger projects within the district.

Councilor Smith stated he is concerned with Item 6, regarding satellite dishes, and wonders if people will have to go to the Historic District Commission now. Councilor Kennedy explained that this already exists in a different section of the ordinance, so therefore, people wouldn't have to appear before the HDC.

Councilor Dwyer stated that this is a great idea but wants to ensure that the Planning Board does review it, specifically Items 12 and 21.

Councilor Thorsen stated that he served as the Councilor representative to the HDC briefly before Councilor Kennedy was able to serve and hopes that this will make things more clear for residents and allow them to be better prepared when they do have to appear before the Historic District Commission.

City Manager Bohenko stated that Planning Director Taintor will note everyone's concerns to address with the Planning Board.

**Motion voted.**

3. Polling Hours for November 6, 2012 Presidential General Election

**Councilor Smith moved to set the polling hours from 8:00 a.m. to 8:00 p.m. for the Presidential General Election, November 6, 2012, seconded by Councilor Novelline Clayburgh.**

Councilor Kennedy expressed concern with the negativity that came about with the last election and asked that staffing levels be reviewed if necessary.

City Manager Bohenko explained that City Clerk Barnaby is the Elections agent of the Secretary of State for the City of Portsmouth and therefore, he will discuss with her any need for additional resources.

Councilor Lown and Councilor Thorsen both asked that the Council be updated with number of people turned away from voting at the November 6<sup>th</sup> General Election as a result of the new voter I.D. law.

**Motion voted.**

**B. MAYOR SPEAR**

1. Appointment to be Voted:

**Parking and Traffic Safety Committee**

- Shari Donnermeyer to the Parking and Traffic Safety Committee

**Councilor Smith moved to appoint Shari Donnermeyer to the Parking and Traffic Safety Committee for a term of 3 years. Seconded by Councilor Novelline Clayburgh and voted.**

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

Councilor Coviello asked that the letter received today, September 17, 2012, from the Weinsteins regarding brick sidewalk replacement, be added to the next agenda in October.

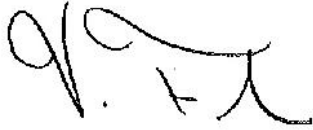
Assistant Mayor Lister asked for an update on senior services. City Manager Bohenko stated that the City has executed a new transportation agreement with Wentworth Connections and they will be purchasing a new van. He stated that they are currently reviewing 8 applications for the senior services coordinator position. Councilor Smith asked who will own the van with City Manager Bohenko stating it will be owned 50/50.

Councilor Novelline Clayburgh asked the City Manager to comment on the issue raised by a resident during the public comment session regarding the John Langdon gravesite. City Manager Bohenko stated that he will discuss the issue with staff and feels that it needs to be addressed the right way with the right people.

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

**Councilor Smith moved to adjourn at 8:05 p.m., seconded by Assistant Mayor Lister and voted.**

Respectfully submitted:

A handwritten signature in black ink, appearing to read 'V. French', written in a cursive style.

Valerie A. French  
Deputy City Clerk