

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, DECEMBER 2, 2013

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

At 6:30PM, An Anticipated "Non-Meeting" with Counsel was held Re: Personnel Matters – RSA: 91-A:2, I (b-c)

I. CALL TO ORDER

Mayor Spear called the meeting to order at 7:15 p.m.

II. ROLL CALL

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

ABSENT: Councilor Smith

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

Councilor Novelline Clayburgh led in the Pledge of Allegiance to the Flag.

V. ACCEPTANCE OF MINUTES – OCTOBER 7, 2013 AND OCTOBER 21, 2013

Councilor Lown moved to approve and accept the minutes of the October 7, 2013 and October 21, 2013 City Council meetings. Seconded by Councilor Thorsen and voted.

Assistant Mayor Lister moved to suspend the rules in order to take up Item XII. C.1. – Recommendation of City Council Evaluation Committee Re: Proposed Amendment to City Manger's Employment Agreement. Seconded by Councilor Lown and voted.

XII. C.1. Recommendation of City Council Evaluation Committee Re: Proposed Amendment to City Manger's Employment Agreement

Assistant Mayor Lister moved at the request of the City Manager to withdraw the Evaluation Committee's recommendation for an amendment to the City Manager's Employment Agreement as listed under Assistant Mayor Lister's name on the agenda. Seconded by Councilor Novelline Clayburgh.

Assistant Mayor Lister said this is something to give City Manager Bohenko for his excellence over the last 17 years of work for the City. He said this was to provide an incentive for the City Manager to stay in the City. The Committee has given the City Manager extraordinary marks and the City has received a Triple A bond rating in the last year.

Also, there have been 5 increases in our bond rating over the last 17 years since City Manager Bohenko has been here which has resulted in the City saving \$4.7 million dollars with the bonding for a new wastewater treatment plant. He said the Committee will reconvene and meet on this matter further.

On a roll call 7-1, voted at the request of the City Manager to withdraw the Evaluation Committee's recommendation for an amendment to the City Manager's Employment Agreement as listed under Assistant Mayor Lister's name on the agenda. Assistant Mayor Lister, Councilors Kennedy, Novelline Clayburgh, Lown, Dwyer, Thorsen and Mayor Spear voted in favor. Councilor Coviello voted opposed.

Assistant Mayor Lister voted to suspend the rules in order to take up Item XII. A.1. – Approval of Proposed Employment Agreement for Deputy Fire Chief James B. Heinz. Seconded by Councilor Kennedy and voted.

XII. A.1. Approval of Proposed Employment Agreement for Deputy Fire Chief
James B. Heinz

Assistant Mayor Lister moved that the City Council approve the Employment Agreement between James Heinz and the Portsmouth Fire Commission for a 5-year term expiring on June 30, 2018. Seconded by Councilor Kennedy and voted.

VI. PUBLIC COMMENT SESSION

Mark Brighton thanked City Manager Bohenko and Assistant Mayor Lister for withdrawing the amendment to the City Manager's Employment Agreement.

Marylou McElwain said the public needs to be more informed and the process more transparent with the amendment to the City Manager's Employment Agreement. She stated the timing for this amendment is not good with taxes due this week.

Dick Bagley thanked City Manager Bohenko for the extraordinary things he has done for the City over the last 17 years. He understands the importance of retention of good employees but the City Manager has a severance package that would make him eligible for 1 year of salary for every year of service and his health and dental benefits.

City Manager Bohenko explained the process for the payment of the severance package.

Arthur Clough spoke regarding the leave and termination fund and spoke to the difficulty getting union contracts approved. He said the City Manager should be honored like people have in the past maybe naming an appropriate building after him. He stated the City Manager is very well paid.

James Boyle said he just received his tax bill and it should not include lavish contract increases and also stated that staffing levels at the City are bloated. He feels the amendment to the City Manager's Employment Agreement should be placed on file and not set aside for a time.

VII. PUBLIC HEARINGS

- A. ORDINANCE AMENDMENT CHAPTER 7, ARTICLE IV, SECTION 7.402 – AREAS ESTABLISHED, DESIGNATED AND DESCRIBED, OFF-STREET PARKING AREAS, ADD LEARY FIELD PARKING AREA, NOT TO EXCEED 72 HOURS AT ONE TIME

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

City Manager Bohenko stated that this is a procedural item to bring it under parking lots in the City.

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

- B. ORDINANCE AMENDMENTS TO THE ZONING ORDINANCE, ARTICLE 6 – OVERLAY DISTRICT, SECTION 10.630 – HISTORIC DISTRICT

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

Planner Nick Cracknell provided a brief presentation and overview of the Historic District including the ordinance. He stated this ordinance is to streamline the process and reported that 75% of minor projects have people sitting in this room for hours. He said we are looking to limit items on the agenda to 1 or 2 projects. He spoke to electronic plan submissions and scale drawings. He also stated the Historic District Commission would be creating a consent agenda for the approval of minor projects.

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

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second reading of Ordinance amending Chapter 7, Article IV, Section 7.402 – Areas Established, Designated and Described, Off-Street Parking Areas, Add Leary Field Parking Area, not to exceed 72 hours at one time

Councilor Kennedy moved to pass second reading and schedule a third and final reading of the proposed Ordinance, as presented, at the December 16, 2013 City Council meeting. Seconded by Assistant Mayor Lister.

City Attorney Sullivan requested that the ordinance be amended by removing the word “dirt” lot and replacing it with “paved” lot.

Councilor Lown moved to amend the Ordinance by removing the word “dirt” lot and replacing it with “paved” lot. Seconded by Councilor Coviello and voted.

Main motion passed as amended.

- B. Second Reading on Proposed Amendments to the Zoning Ordinance, Article 6
– Overlay District, Section 10.630 – Historic District

Councilor Kennedy moved to pass second reading and schedule a third and final reading at the December 16, 2013 City Council meeting. Seconded by Councilor Novelline Clayburgh.

Councilor Kennedy moved to amend the ordinance to include the Planning Board recommended changes as outlined in the green document provided in the City Council packet. Seconded by Councilor Novelline Clayburgh and voted.

Planning Board Recommended Changes:

- Section 10.634.20 – Application Contents

*By the Addition of Language as Follows: **Such plans shall clearly state the overall height, width and depth of the proposed building.***

- Section 10.634.23

*By the Addition of Language as Follows: **Said model shall include the proposed building and all existing and approved building within 250 feet of the proposed building on every street which the proposed building abuts.***

Section 10.635.35

*By the Addition of Language to Item (3) as Follows: **during the public hearing on the Consent Agenda or, if the application is removed from the consent agenda as provided in paragraph (5) below, during the hearing on that matter.***

Councilor Thorsen moved to amend Section 10.633.30 – Administrative Approval by the addition of words in terms of the Administrative Approvals as follows: *subject to Historic District Commission approval at the next meeting of the Historic District Commission that a list of the administrative approvals be submitted to the Historic District Commission prior to the meeting and that the administrative approvals be automatically ratified unless rejected specifically by the Historic District Commission at that meeting.* Seconded by Councilor Kennedy and voted.

Mayor Spear passed the gavel to Assistant Mayor Lister.

Mayor Spear said reviewing the workload with the Historic District Commission and breaking down projects over 10,000 square feet he would like to receive feed back on having two separate independent boards for projects in the downtown for commercial and residential in the overlay. He asked if that kind of approach has been looked at. Planner Nick Cracknell asked who the second board would be. Mayor Spear said the two boards would need to be created by the City Council. Planner Cracknell stated that these amendments will not solve all the problems but create a good distance to address some of the large projects and the 4-5 hour meetings taking place 3 times per month.

He said with all of these coming together the applicants would not see an improvement with the process. He feels there will be significant improvement with this ordinance and we need to evaluate this ordinance to see how these improve and change.

Assistant Mayor Lister returned the gavel to Mayor Spear.

Main motion passed as amended.

X. CONSENT AGENDA

- A. Request for License from Kim Lively, owner of Lively Kids for property located at 133 Market 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 Kim Lively, owner of Lively Kids for a projecting sign at property located at 133 Market 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 Kennedy moved to adopt the Consent Agenda. Seconded by Councilor Dwyer and voted.

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

2. Lease of Greenleaf Recreation Center Re: Operation Blessing

City Manager Bohenko spoke to the lease of the Greenleaf Recreation Center and indicated that the Portsmouth Housing Authority (PHA) does not want to renew its lease.

He said Operation Blessing is a 501 C 3 and would become the new leasee of the building and have stated they're committed to working with other social service non-profits to ensure the recreation center is not duplicative of existing services and plans to retain the services currently offered by the PHA to its residents at the adjacent Wamesit Place family housing development.

In addition, Operation Blessing has committed to making the facility available to the existing users. He further stated he would work closely with the Recreation Board and the Recreation Director on this matter.

Assistant Mayor Lister moved to authorize the City Manager to further explore a potential concession agreement (Lease agreement) for the Greenleaf Recreation Facility with Operation Blessing, Inc. in close coordination with the Recreation Board and report back at a future meeting. Seconded by Councilor Novelline Clayburgh.

Councilor Lown asked what percentage of activities have to be devoted to recreation and was the Greenleaf building considered by the Senior Committee and if the Committee would comply with the requirements. Assistant Mayor Lister said the site was looked at but it is not being pursued by the Senior Committee.

Councilor Novelline Clayburgh asked if maintenance is handled by Operation Blessing or the City. City Manager Bohenko stated we will be discussing that and it may be more efficient for us to supply some of the maintenance. Councilor Novelline Clayburgh asked if this includes the skate board park. City Manager Bohenko said we need to evaluate the skate board park and its needs and utilization.

Assistant Mayor Lister said he would support the proposal for further communication and thanked Operation Blessing for its services provided to the City.

Motion passed.

City Manager's Informational Items

City Manager Bohenko announced the Holiday Parade and Tree Lighting Ceremony will be held on Saturday, December 7, 2013.

B. MAYOR SPEAR

1. Resignation – Bob Shouse from the Blue Ribbon Committee on Sustainable Practices

Mayor Spear notified the Council that he has received the resignation of Bob Shouse from the Blue Ribbon Committee on Sustainable Practices. No formal action taken by the City Council.

D. COUNCILOR SMITH

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the November 14, 2013 meeting

Assistant Mayor Lister moved to approve and accept the action sheet and minutes of the Parking and Traffic Safety Committee meeting of November 14, 2013. Seconded by Councilor Dwyer and voted.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

At 8:00 p.m., Councilor Novelline Clayburgh moved to adjourn. Seconded by Assistant Mayor Lister and voted.



Kelli L. Barnaby, CMC/CNHMC
City Clerk