

TO: JOHN P. BOHENKO, CITY MANAGER

FROM: KELLI L. BARNABY, CITY CLERK

RE: ACTIONS TAKEN BY THE PORTSMOUTH CITY COUNCIL MEETING HELD ON MONDAY, MARCH 17, 2014, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, MUNICIPAL COMPLEX, ONE JUNKINS AVENUE, PORTSMOUTH, NEW HAMPSHIRE

PRESENT: MAYOR LISTER, ASSISTANT MAYOR SPLAINE, COUNCILORS SHAHEEN, KENNEDY, LOWN, DWYER, MORGAN, SPEAR AND THORSEN

1. At 5:45 p.m., an Anticipated "Non-Meeting" with Counsel was held regarding Litigation – RSA 91-A:2 I (c).
2. Presentation - Proposed Interim Space for Senior Programming – Recreation Director Rus Wilson and Senior Services Coordinator Brinn Chute – **Voted** that the Sub-Committee request the City Manager be authorized to enter into negotiations with Mark Wentworth Home and/or the Foundation for Seacoast Health for an interim senior programming space at the Community Campus location.
3. Acceptance of Minutes – January 6, 2014 – **Voted** to approve and accept the minutes of the January 6, 2014 City Council meeting.
4. Public Comment Session – There were 15 speakers: Tom Carroll (Dangerous Scrap Metal on Market Street); Rich DiPentima, Bob Gebbins (Sea-3); Bob Shouse, Joe Caldarola, Rick Becksted, Paul Mannle (Port Walk); Barbara DeStefano, Peter Loughlin (Development); Arthur Clough (Confidence); Mark Brighton (Teacher Retirement); Claire Kittredge (Penalties, Civility, Financial Disclosure); Anthony DiLorenzo (Conditional Use Permit); Cate Jones (Building Height); and Erik Anderson (Abandoned or Derelict Buildings).
5. Public Hearing - Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.535 – Exceptions to Dimensional Standards in the Central Business District, which would eliminate a Conditional Use Permit under Section 10.535.13 – Held a public hearing. On a roll call 5-4, **voted** to approve the Zoning Ordinance as proposed, by deleting Section 10.535.13, and schedule third and final reading for the April 7, 2014 City Council meeting. Assistant Mayor Splaine, Councilors Kennedy, Morgan, Thorsen and Mayor Lister voted in favor. Councilors Shaheen, Lown, Dwyer and Spear voted opposed.
6. **Voted** to suspend the rules in order to continue the meeting beyond 10:00 p.m. until 11:00 p.m.
7. Public Hearing - Proposed Amendments to Chapter 10 – Zoning Ordinance, Inserting a New Article 5A – Character Districts (aka Form-Based Zoning) and further to Adopt the Zoning Map for the Character Districts for the Maps reference in Section 10.5A14.10 of Article 5A – Held a public hearing. Moved to pass second reading and schedule a third and final reading of the proposed Ordinance, as presented, at the April 7, 2014 City Council meeting.

On a voice vote 2-7, motion to amend Map 10.5A21B – Special Requirements: Special Building Height Requirement Areas from Congress Street to Market Square on the northerly side from the color magenta that allows 2-4 stories with a maximum building height of 60’ to the color orange that allows 2-3 stories with a maximum building height of 50’ **failed** to pass. Councilors Kennedy and Morgan voted in favor. Assistant Mayor Splaine, Councilors Shaheen, Lown, Dwyer, Spear, Thorsen and Mayor Lister voted opposed.

On a unanimous roll call 9-0, **voted** to pass second reading and schedule a third and final reading of the proposed Ordinance, as presented, at the April 7, 2014 City Council meeting.

8. **Voted** to suspend the rules in order to continue the meeting beyond 11:00 p.m. with action on the following agenda items and any other items that may require immediate action by the Council. The remaining items to be postponed to the April 7, 2014 City Council meeting:
- VII. C. – Public Hearing on Proposed Amendments to Chapter 10 – Zoning Ordinance, Miscellaneous Conforming Amendments to Implement Character-Based Zoning;
 - VIII. A. - Second Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.535 – Exceptions to Dimensional Standards in the Central Business District, which would eliminate a Conditional Use Permit under Section 10.535.13;
 - VIII. B. - Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Inserting a New Article 5A – Character Districts (aka Form-Based Zoning) and further to Adopt the Zoning Map for the Character Districts for the Maps reference in Section 10.5A14.10 of Article 5A;
 - VIII. C. - Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Miscellaneous Conforming Amendments to Implement Character-Based Zoning;
 - IX. – Consent Agenda Items A-E:
 - A. Request for Approval of Pole License to install 1 pole and 40’ of underground conduit on Livermore Street for an electrical service to 32 Livermore Street;
 - B. Letter from Robert L. Sutherland, Jr., St. John’s Lodge requesting permission to hold the 5k “Out of Hibernation” Road Race on Saturday, April 12, 2014 at 8:00 a.m.;
 - C. Letter from Robert L. Sutherland, Jr., St. John’s Lodge requesting permission to hold a march for the observance of St. John’s Sunday, June 22, 2014 at 9:00 a.m.;
 - D. 2014 Omnibus Sidewalk Obstruction Renewals – See Attached Listings
 - E. Letter from Matthew Raffio, Arthritis Foundation requesting permission to hold the Annual Jingle Bell Run on Saturday, December 13, 2014 at 10:00 a.m.
 - X. - Letter from Chris Thompson, HarborCorp, LLC regarding Second Reading of Ordinance to Eliminate Conditional Use Permit

- XI. – City Manager’s Action Items:
 - 1) Proposed Release of Funds for African Burying Ground
 - 2) Proposed Borrowing Re: New Franklin School Energy Project
 - 3) Establish a Date and Time for Pan Am Railways to make a Presentation to the City Council
 - 4) Request for Approval on Teacher’s/Administrator’s Retirement Incentive
 - 5) Proposed Easement Re: Hill Street
 - 6) Request for Encumbrance License Re: 10 State Street
9. Public Hearing - Proposed Amendments to Chapter 10 – Zoning Ordinance, Miscellaneous Conforming Amendments to Implement Character-Based Zoning – Held a public hearing. **Voted** to pass second reading and schedule a third and final reading of the proposed Ordinance, as presented, at the April 7, 2014 City Council meeting.
 10. **Voted** to suspend the rules in order to take up Items XI. A.2. – Proposed Borrowing Re: New Franklin School Energy Project and XI. A.4. – Request for Approval of Teacher’s/Administrator’s Retirement Incentive.
 11. Proposed Borrowing Re: New Franklin School Energy Project – **Voted** to bring back for first reading the borrowing Resolution in an amount not to exceed \$400,000.00 for the New Franklin School Energy Project, as presented in the correspondence from Edward McDonough, Superintendent of Schools, dated March 5, 2014, at the April 7, 2014 City Council meeting.
 12. Request for Approval of Teacher’s/Administrator’s Retirement Incentive – **Voted** to approve the request to offer a retirement incentive to teacher’s/administrator’s, as presented.
 13. Consent Agenda – **Voted** to adopt the Consent Agenda.
 - A. Request for Approval of Pole License to install 1 pole and 40’ of underground conduit on Livermore Street for an electrical service to 32 Livermore 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**)
 - B. Letter from Robert L. Sutherland, Jr., St. John’s Lodge requesting permission to hold the 5k “Out of Hibernation” Road Race on Saturday, April 12, 2014 at 8:00 a.m. (**Anticipated action – move to refer to the City Manager with power**)
 - C. Letter from Robert L. Sutherland, Jr., St. John’s Lodge requesting permission to hold a march for the observance of St. John’s Sunday, June 22, 2014 at 9:00 a.m. (**Anticipated action – move to refer to the City Manager with power**)
 - D. 2014 Omnibus Sidewalk Obstruction Renewals – See Attached Listings (**Anticipated action – move to refer to the City Manager with power**)

- E. Letter from Matthew Raffio, Arthritis Foundation requesting permission to hold the Annual Jingle Bell Run on Saturday, December 13, 2014 at 10:00 a.m. **(Anticipated action – move to refer to the City Manager with power)**
14. Letter from Chris Thompson, HarborCorp, LLC regarding Second Reading of Ordinance to Eliminate Conditional Use Permit – **Voted** to accept and place the letter on file.
15. Proposed Release of Funds for African Burying Ground – **Voted** to authorize the City Manager to expend funds from the Trust up to \$1,200,000.00 for the construction of the African Burying Ground Memorial Park.
16. Establish a Date and Time for Pan Am Railways to make a Presentation to the City Council – **Voted** to authorize the City Manager to schedule a date for this presentation.
17. Proposed Easement Re: Hill Street – **Voted** to authorize the City Manager to accept a utility easement from Hill-Hanover Group LLC.
18. Request for Encumbrance License Re: 10 State Street – **Voted** to authorize the City Manager to enter into a license with Ten State Street, LLC to facilitate construction activities at 10 State Street, which will include improvements to City land by Owner after completion of the project.
19. Appointments to be Considered – The City Council considered the appointments listed below and action will be taken at the April 7, 2014 City Council meeting.
- Judith Bunnell appointed to the Citizens Advisory Committee
 - Steve Miller reappointment to the Conservation Commission
 - Elissa Hill Stone reappointment to the Conservation Commission
 - Allison Tanner reappointment to the Conservation Commission
 - Amy Schwartz reappointment to the Portsmouth Housing Authority
 - Stephen Philp reappointment to the Peirce Island Committee
 - John Simon reappointment to the Peirce Island Committee
 - Jackie Cali-Pitts reappointment to the Recreation Board
 - Jason Boucher appointment to the Recreation Board
 - Kathryn Lynch appointment to the Recreation Board
20. Appointments to be Voted – **Voted** to appoint R. Bruce Boley to the Library Board of Trustees until October 1, 2016.
- Voted** to appoint Jack Jamison to the Library Board of Trustees until October 1, 2016.
21. Councilor Morgan requested the City Manager's Informational Item 3 – Informational Memorandum from Robert Sullivan, City Attorney Re: Portwalk be brought back for the April 7, 2014 City Council meeting.
22. The following items were postponed until the April 7, 2014 City Council meeting:
Assistant Mayor Splaine:
- Sea-3 Propone Proposal Update
 - Creating A Fee Penalty Guideline for Violations of Land Use Board Approvals
 - Status of Abandoned or Derelict Buildings

Councilor Morgan:

- Master Plan – Update of our Master Plan's Implementation Plan section, in anticipation of the 2015 Master Plan Review
- Portwalk – Request for Work Session to review:
 - a) enforcement
 - b) penalties
 - c) process and path forward: how we got here and what is the plan/process to prevent this from happening again
- Civility by City Officials

Councilor Thorsen

- Legal Analysis regarding Financial Disclosures received from NHMA and suggested amendment language to Administrative Code

23. Adjournment – At 12:35 a.m., voted to adjourn.

Respectfully submitted by:

Kelli L. Barnaby, CMC/CNHMC
City Clerk