

## CITY COUNCIL MEETING

**MUNICIPAL COMPLEX**  
**DATE: MONDAY, MAY 5, 2014**

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

### **I. CALL TO ORDER**

Mayor Lister called the meeting to order at 7:00 p.m.

### **II. ROLL CALL**

**PRESENT:** Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Lown, Dwyer, Morgan, Spear and Thorsen

### **III. INVOCATION**

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

### **IV. PLEDGE OF ALLEGIANCE**

Assistant Mayor Splaine led in the Pledge of Allegiance to the Flag.

### **PROCLAMATIONS**

#### **1. Bike/Walk to Work Day**

Councilor Lown read the Proclamation declaring May 16, 2014 as Portsmouth Bike/Walk to Work Day

#### **2. Police Week in Portsmouth – Peace Officers’ Memorial Day**

Councilor Shaheen read the Proclamation declaring May 11<sup>th</sup> – May 17<sup>th</sup> as Police Week in Portsmouth requesting all citizens of Portsmouth observe May 15<sup>th</sup> as Peace Officers’ Memorial Day by lowering all City, State and American flags in Portsmouth to half staff on Thursday, May 15, 2014. Police Chief Dubois accepted the Proclamation with thanks and appreciation.

### **PRESENTATIONS**

#### **1. Community Development Week and Community Advisory Committee Recognition**

Community Development Director David Moore announced that this year the Federal Community Development Block Grant program will celebrate 40 years of service to American families. Director Moore recognized the dedicated service of three past members of the Citizens Advisory Committee, the family of the late Jean Pecunies with 39 years of service, Algene Bailey, Sr. with 8 years of service and member and past Chair, Bob Layton with 37 years of service.

2. NH Division of Historical Resources – Updated on the National Historic Register Nomination process for the Downtown – Peter Michaud

Peter Michaud provided an update on the National Register of Historic Places Program nomination process for Downtown Portsmouth. He reported that the funding provided to the NH Division of Historical Resources as part of the mitigation for replacement of the Memorial Bridge allows Portsmouth to be considered for nomination.

## V. ACCEPTANCE OF MINUTES – FEBRUARY 18, 2014

**Councilor Kennedy moved to approve and accept the minutes of the February 18, 2014 City Council meeting. Seconded by Councilor Shaheen and voted.**

## VI. PUBLIC COMMENT SESSION

Doug Roberts announced that there are two upcoming events on Smart Growth for the 21<sup>st</sup> Century. The first, will take place on Tuesday, May 13<sup>th</sup> at the Library where a movie will be shown on how to design a city. The second, will be June 3<sup>rd</sup> with a group discussion on the book a Walkable City. Mr. Roberts provided the City Council and City Manager Bohenko with copies of the book.

Tom Carroll asked the City to consider leasing property at the Port for parking. This idea came from “Save our Working Port”. He stated this would be a perfect location for parking and would keep the view of the water open.

Rick DiPentima presented the City Council with a petition requesting the City Council appeal to the Rockingham County Court on the Town of Newington’s decision regarding the Sea-3 project. He stated there are 699 signatures on the petitions and the level of concern expressed by people is amazing, we need to fight this matter.

Lee Rubin advised the City Council that Hanscom Truck Stop will be auctioned off next week. He stated over the last 25 years the neighborhood has tried to get the truck stop to comply with the rules and regulations of the City and they would like to reach out to the new business owners to ensure that business as usual does not continue.

Paul Mannle presented an idea he has with a solution to the parking problem. He suggested that the City purchase the Frank Jones property and create parking. He said the property could also be used as a hockey rink and you could create some affordable housing.

Joe Caldarola spoke to the need for a parking and transportation solution and that employee parking needs to be among the highest priorities. He also suggested surveying the downtown employees to find out what is needed for them to use the shuttle service.

Rick Becksted said City staff is working on the errors made by Portwalk and Portwalk should have to pay for the extra work they created for the staff by not following the approvals for the building materials, etc.

## VII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 7, ARTICLE I, SECTION 7.103 – PARKING AND TRAFFIC SAFETY COMMITTEE BY THE ADDITION OF ONE (1) ALTERNATE COMMITTEE MEMBER

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

Harold Whitehouse spoke in support of the ordinance and said it is important for the Committee to have an alternate member. He informed the Council that the Parking and Traffic Safety Committee voted unanimously to approve this amendment to the ordinance.

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

## VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grants & Donations to the Police Department:

- Grant from Department of Justice for the Victim/Witness Advocate position - \$35,000.00
- Grants from the State of Highway Safety Agency:
  - \$6,864.00 for Portsmouth DWI/DUI Patrols
  - \$6,864.00 for (2) Sobriety Checkpoints
  - \$5,148.00 for Pedestrian Patrols
  - \$5,148.00 for Red Light Running Patrols
  - \$5,148.00 for Enforcement Patrols
  - \$2,808.00 Join the Clique Seat Belt Campaign
- Donations:
  - Donation from Jason Page for 2 Tuition scholarships to the Explorer Cadet Academy - \$300.00
  - Donation from Mr. & Mrs. David Brown for 2 tuition scholarships to the Explorer Cadet Academy - \$300.00

**Councilor Kennedy moved to approve and accept the grants and donations to the Portsmouth Police Department, as presented. Seconded by Councilor Lown.**

Councilor Thorsen spoke to several of the grants having stipulations that services would be provided by off duty patrolman at an overtime rate. He asked why we went that route. Police Chief Dubois said the officers would be working over and above their assigned duties. Councilor Thorsen said things are planned in advance and asked could we plan not to have them take place during overtime.

Councilor Kennedy asked if the department would be seeking grants for the increase in drug use in the City. Chief Dubois said we apply for those types of grants and that he has retooled enforcement to target the drug use concerns.

**Motion passed.**

## IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second reading of Proposed Amendment to Chapter 7, Article I, Section 7.103 – Parking and Traffic Safety Committee by the addition of one (1) alternate Committee Member

**Councilor Lown moved to pass second reading of the proposed Ordinance amendment, as presented, and hold third and final reading at the May 19, 2014 City Council meeting. Seconded by Councilor Dwyer.**

City Attorney Sullivan explained what an alternate member is and what their function would be.

**Assistant Mayor Splaine moved to suspend the rules in order to allow Harold Whitehouse to address the City Council on this matter. Seconded by Councilor Kennedy and voted.**

Harold Whitehouse said the motion was requested by City Manager Bohenko. City Manager Bohenko stated when a member is absent the alternate would be allowed to vote in place of the absent member.

**Motion passed.**

## X. CONSENT AGENDA

- A. Request for License from Mallory Parkington, owner of Mallory Parkington Photography for property located at 74 Congress 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 Mallory Parkington, owner of Mallory Parkington Photography for a projecting sign at property located at 74 Congress Street and, further, authorize the City Manager to execute License Agreements for this request)***

**Planning Director's Stipulations:**

- ***The license shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting sign, for any reason, shall 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 sign, 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. Letter from Chris Curtis, The Music Hall, requesting permission to close Chestnut Street throughout the weekend of September 19, 2014 – September 21, 2014 for the Telluride by the Sea film festival (***Anticipated action – move to refer to the City Manager with power***)

**Councilor Kennedy moved to adopt the Consent Agenda. Seconded by Councilor Morgan and voted.**

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

*There are no items under this section of the agenda this evening.*

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

### **A. CITY MANAGER**

City Manager Bohenko announced that he has no items on for action this evening.

#### Informational Items

#### *2. Memorandum on Snow Removal Cost Summary as of April 23, 2014*

City Manager Bohenko reported the snow plowing/removal operations appropriation made was \$507,236.00 and the amount expended is \$615,732.84 for an overage of \$108,496.84.

#### *3. Reminder Re: FY15 Budget Schedule*

City Manager Bohneko reminded the Council of the following key budget dates for the FY15 Budget:

- Saturday, May 10<sup>th</sup> from 8:00 a.m. to 2:30 p.m., in the Levenson Room, at the Library – An “All Day” Work Session with Departments (e.g., Police, Fire, Schools and General Government).
- Monday, May 12<sup>th</sup> at 7:00 p.m., City Council Chambers – Budget Public Hearing
- Wednesday, May 14<sup>th</sup> at 6:30 p.m. City Council Chambers – Review of Water/Sewer Budget
- Tuesday, May 27<sup>th</sup> at 6:30 p.m., City Council Chambers – An additional work session for the final budget review
- Monday, June 2<sup>nd</sup> at 7:00 p.m., City Council Chambers – Proposed Adoption of FY15 Budget.

#### *4. New Interim Senior Program Space*

City Manager Bohenko spoke to the new interim Senior Program space which is located at the Community Campus and opens on Tuesday, May 6<sup>th</sup>.

Councilor Kennedy asked when the May 10<sup>th</sup> Work Session would be re-televised. City Manager Bohenko said on Sunday and Monday following the meeting.

Councilor Shaheen announced that the budget is available at the Library, City Clerk's office and the website.

Councilor Morgan asked why the Work Session could not be held at City Hall. City Manager Bohenko said due to Farmer's Market and there would not be enough parking.

Councilor Dwyer said the Library is a more comfortable setting for the all day Work Session. She also indicated that we should make more copies of the budget available for the day of the Work Session for residents.

## **B. MAYOR LISTER**

### 1. Medical Insurance Options

Mayor Lister indicated he would ask Councilor Lown to speak to this matter as well. He said we want to look at what medical insurance options are available for the City.

Councilor Lown stated the City pays a significant amount of money on medical insurance and would like to see if there are other options available with the same coverage for less money. He requested that a report back be provided to the City Council on this matter.

City Manager Bohenko said we could speak with Human Resources Director Dianna Fogarty on her ideas relative to this matter. He does not know if he would come back with something of interest for the City Council and would like to have something that would be part of the current contracts.

Councilor Dwyer said a member of the union should be part of the Committee that would be looking into this matter.

Councilor Kennedy explained that her school district had different insurance carriers come in to present their plans and explain the coverage.

Councilor Thorsen said he would like to see what would be available on the self insurer's side and we need to find out if we can look at hybrid ideas.

Councilor Dwyer said you work with insurance brokers and the packages will not differ much, it is more with co-pays.

Councilor Lown said he would look into this and report back to the City Council.

**C. ASSISTANT MAYOR SPLAINE**

1. Sea-3/Pan Am Response

Assistant Mayor Splaine reported that the Town of Newington will be voting on the Sea-3 issue this evening and he would like to suspend the rules to put this item on later in the meeting to get an inclination of what the Town of Newington has decided.

**Assistant Mayor Splaine moved to suspend the rules in order to take this matter up later in the agenda. Seconded by Councilor Thorsen and voted.**

**D. COUNCILOR SHAHEEN**

1. Proposed "Quiet Zone" designation through the Federal Railroad Administration

Councilor Shaheen presented some research and would like the City Council to look at specific intersections that could be designated as quiet zones. She stated there are steps that need to be taken and she has looked at Portland, Maine and other communities in New England that have done this.

City Manager Bohenko said the staff is looking into this matter and there are currently no quiet zones in New Hampshire.

Assistant Mayor Splaine thanked Councilor Shaheen for bringing this matter forward. He said we need to encourage the trains to go slow and we need to make sure the crossings are safe.

**E. COUNCILOR KENNEDY**

1. Transportation Concerns in Neighborhoods

Councilor Kennedy stated that this was an issue on the campaign trail and in speaking with Mayor Lister the Citywide Neighborhood Committee could work on this matter.

**Councilor Kennedy moved to have the Citywide Neighborhood Committee report back to Portsmouth City Council on the following topic: What are the transportation needs in Portsmouth neighborhoods. Seconded by Assistant Mayor Splaine.**

Councilor Kennedy said there is no time line on this matter because she would like it to be a work in progress, but would like some information within the next several months.

Councilor Shaheen asked how we define transportation and the prevue of the question. She feels it is a great idea. Councilor Kennedy stated she did not want to get detailed because she wants to allow everything. She said the neighborhoods need to express their concerns on this matter.

Councilor Dwyer suggested that the Citywide Neighborhood Committee needs to give them some idea on things to be thinking about. She stated that the Committee is volunteer and in the past when we have asked them to do this they were overwhelmed and did not want to do it.

Mayor Lister said Councilor Morgan, Assistant Mayor Splaine and himself attend the meetings. City Manager Bohenko said we are trying to get Juliet Walker to attend their next meeting.

Councilor Morgan said she would like to see Juliet write something with talking points to present to the Chair of the Committee and then at a later time Juliet could attend. City Manager Bohenko said we are willing to be there but Juliet can't attend the next meeting due to the Board of Adjustment meeting that evening.

Councilor Thorsen said the talking points need to be open ended.

**Motion passed.**

2. Transportation Center

Councilor Kennedy asked that Parking and Traffic Safety Committee look at transportation centers.

**Councilor Kennedy moved to ask the Parking and Traffic Safety Committee to review Transportation Centers and provide the City Council input on recommendations on the center and where it might be located in the Portsmouth community. Seconded by Assistant Mayor Splaine.**

Councilor Kennedy said she would like to look at a permanent transportation center and to have the Parking and Traffic Safety Committee to review this matter and report back without a time frame.

Councilor Dwyer said she feels it is a great idea but she is not sure she would support a center. She feels we need to keep this open ended as well. Councilor Dwyer said we should find out if the Parking and Traffic Safety Committee would like to see a center.

Councilor Shaheen said we would also need to find out what is different from the center at Pease.

Councilor Lown said he wants to remind open minded on this. He does not feel the City needs another center. He also stated that the Parking and Traffic Safety Committee is very busy and he does not feel this would be time well spent by the Committee.

Councilor Morgan said the City needs to look at centers to connect other parts of the City.

Assistant Mayor Splaine said he appreciates Councilor Lown's concern, and he is in favor of anything that moves the discussion along. We need to look at how to interconnect the City together.



Councilor Shaheen asked whether the Parking and Traffic Safety Committee is the right Committee to look at this in light of Councilor Lown's comments.

**Motion passed with Councilor Lown voting opposed.**

**F. COUNCILOR MORGAN**

1. Planning for North End

Councilor Morgan said she would like the Planning Director to provide a definition of the process for planning the North End and how transportation and vision would be part of the process.

City Manager Bohenko said as we go through this there will be discussion on all these aspects and possibly through the Charrette process.

Assistant Mayor Splaine said with the visioning of the North End we need to make sure that residents are part of the process and we need to start from the bottom up.

Councilor Morgan said she finds the points from the Planning Director to be important with vision of the North End and we need to leave room for out of the box ideas and thoughts.

Councilor Kennedy said before a Request for Proposals is done the City needs its own vision and goal for what we want to achieve in the end.

Councilor Shaheen asked what Councilor Morgan hopes to have. Councilor Morgan said based on the report from the Planning Director we need to decide on the elements for the vision of the North End and communicate to our contractor. City Manager Bohenko said we need more time to think about this. He feels it should be part of the focus of the Request for Proposals and that we could not provide this information within 10 days. He said the Planning Director spoke about many items in his memorandum and we are looking at a 3 day Charrette.

Councilor Thorsen asked that City Manager Bohenko report back at the next meeting with a firm plan on this with expectations for moving forward. City Manager Bohenko said the Planning Director did explain that in his memorandum.

Councilor Shaheen said there is a lack of clarity. She said we have a list of proposed steps from the Planning Director and the next would be to develop the Request for Proposals and maybe the City Council would review that to make sure everything is included.

City Manager Bohenko said it might be best to have the Planning Director here at the next meeting and have him make a presentation.

2. Financial Disclosure

Councilor Morgan said she would like to hear more information from the City Attorney on a Work Session regarding Financial Disclosures.

Mayor Lister said he understood when it was brought up we would look at this after the budget. Councilor Kennedy said she would like to get a date for a Work Session after the budget.

Mayor Lister said he would come back at the next City Council meeting with a suggested date for a Work Session on this matter.

#### **G. COUNCILOR DWYER AND COUNCILOR THORSEN**

##### 1. Tax Increment Financing District (TIF)

Councilor Dwyer said residents want us to look at the Frank Jones property. She stated this is an important piece of property. She said a TIF District would provide a unique opportunity and the Economic Development Commission could review this property.

**Councilor Dwyer moved to request that the Economic Development Commission evaluate the potential for a Tax Increment Financing District (TIF) around the geographic area of the Frank Jones Conference Center property and to report back to the City Council. Seconded by Councilor Thorsen.**

Councilor Thorsen said this is an important property and there are many technical companies setting up in this area, and we need to look at this as a vision to support this end of the City. He stated he supports the Economic Development Commission looking at a TIF arrangement for the property and he would like to know if it makes sense for the City to purchase the property, or part of the property.

Assistant Mayor Splaine said he supports the idea presented by resident Paul Mannle. He stated there are so many possibilities with this property. He further stated this could be part of the Master Planning process.

Councilor Morgan said it is a good idea and important for the City Council and residents to be more educated. She said she has done research on TIF's and it needs to be done well. She said you can look at the information at the NH Office of Energy and Planning on TIF's.

City Manager Bohenko said that a TIF is a good tool to use for who ever is looking at the property.

Councilor Kennedy said she supports looking at a multitude of options for the property.

**Motion passed.**

#### **C. ASSISTANT MAYOR SPLAINE**

##### 1. Sea-3/Pan Am Response

Assistant Mayor Splaine stated it was important to know how the Town of Newington voted this evening before taking up this matter. He said we all have to do better planning for what we let into the seacoast area.

He stated the Town of Newington is only looking at this as a land issue and asked the City Attorney to provide the Council with what we can do if the Town of Newington votes yes. He announced that the Planning Board in Newington voted unanimously in favor of putting off a formal vote for 2 weeks.

City Attorney Sullivan said what is happening in the Town of Newington is based on State Legislation to review site plans. The job of the Planning Board is to compare the plan to previously adopted regulations for approval of plans. He said if it does to meet the regulations then the Planning Board denies the project. If approved, the City would need to file suit against the Town of Newington in Rockingham Superior Court.

**Assistant Mayor Splaine moved that we file suit against the Town of Newington if and when the Town of Newington approves the Sea-3 project within 30 days. Seconded by Councilor Kennedy.**

Assistant Mayor Splaine said it is imperative that we make it clear to the Town of Newington that we would take what necessary action with the options available to us.

Councilor Lown said that by taking this motion we are prejudging Newington. He stated he would oppose the motion.

Councilor Kennedy said she is debating if a neighboring Town to us would do this to us. She does not feel a vote is needed this evening.

Councilor Shaheen asked the legal grounds we have to make this decision and justification to fight it in court. She said a motion should not be taken until the Town of Newington makes a decision.

Councilor Thorsen said we need to consider the stipulations that come forward with this. The safety of the City is what we are concerned with. He stated he does not feel it is right to make the decision this evening but the time will come quickly and he would support it later, but not right now.

Councilor Dwyer said she agrees with the prior comments and we should go in the direction of doing this vote after Newington has voted. She feels we need to proceed with caution.

Councilor Shaheen said legal action is one step we could take and this is about the safety and environmental impact to the City. She said we need to look at every option.

**Councilor Lown moved to postpone action on this matter until the May 19, 2014 City Council meeting. Seconded by Councilor Kennedy.**

Assistant Mayor Splaine said he would withdraw his motion and Councilor Kennedy stated she would withdraw the second to the motion as long as Newington has voted on the matter.

Councilor Lown said we need to see the legal analysis on this matter and what the decision is by Newington.

**Motion passed.**

### **XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

Councilor Thorsen suggested that City Manager Bohenko look into the sale of the Frank Jones Conference Center.

Councilor Kennedy requested the City recognize those volunteers that maintain the various Adopt-A-Spots throughout the City.

Councilor Kennedy requested to have a discussion on what the role of the City Council is with agreements and contracts.

Councilor Shaheen requested that City Attorney Sullivan provide a sense of how long a legal battle would take with the Town of Newington, if the City was to move forward with a lawsuit. City Attorney Sullivan said that discussion should take place in a "Non-Meeting" with Counsel.

### **XIV. ADJOURNMENT**

**At 9:55 p.m., Councilor Shaheen moved to adjourn. Seconded by Councilor Dwyer and voted.**



Kelli L. Barnaby, CMC/CNHMC  
City Clerk