

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, MAY 19, 2014

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

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

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

Mayor Lister called the meeting to order at 7:30 p.m.

II. ROLL CALL

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

III. INVOCATION

IV. PLEDGE OF ALLEGIANCE

Mayor Lister asked Peter Torrey from the audience to lead in a moment of silence and the Pledge of Allegiance.

PRESENTATION

1. North End Vision

Nick Cracknell, City Planner, gave a brief presentation updating the status of previously introduced multi-day planning and design charette to develop a community vision for the North End and Islington Street as part of the Context-Sensitive redevelopment initiative which began in March of 2012.

City Manager Bohenko stated that this is a good outline of how to start moving along. He stated we will bring in consultants to talk to the Council regarding the north end but we need to set parameters as to what to study as a first step and in conjunction with our walkable city and transportation policies. He stated he would like to bring this back at a future date with consultants.

Assistant Mayor Splaine stated this is a good first step but he wants to make sure that we remember that the North End belongs to the City and worries that only developers will be involved in the discussions which will narrow the focus. He stated we need to find a way to involve all of the neighborhoods with various meetings at the schools and not just city hall.

Councilor Kennedy stated she agrees with Assistant Mayor Splaine as the form-based zoning issue was marketed well and involved a lot of citizens so the city should follow the same process. She stated she wants to see a map of what is involved and also use the information that was gathered by the Islington Street neighborhood group 5 years ago as they did a lot of work and nothing was done with it.

Councilor Morgan asked if this will intersect with the bicycle and pedestrian Master Plans. City Planner Cracknell stated yes. She stated she also wants to maximize citizen participation through the website for those who cannot attend meetings.

City Manager Bohenko stated the next step will be to decide the parameters of the North End.

V. ACCEPTANCE OF MINUTES – MARCH 3, 2014

Councilor Kennedy moved to accept and approve the Minutes of March 3, 2014 City Council meeting. Seconded by Councilor Dwyer and voted.

VI. PUBLIC COMMENT SESSION

Tom Carroll, spoke regarding the recent decision by the PDA to not renew the contract for the scrap metal business stating it is the dawn of a new era and feels that it opens the possibilities of something beautiful on the site. He continued that he wants to dispel the buzz that he and the Save our Working Port group was responsible for the contract not being renewed. He stated that EPA violations were occurring in addition to other issues and the scrap metal company caused their own demise. He thanked those who kept an open mind and understands those who didn't support his concerns.

Bob and Natalie Hassold, presented a picture of the scrap metal pile stating it is what they see everyday and then presented an artist rendering by Denise Brown of what the site could look like without the scrap metal pile. Mr. Hassold stated that the PDA has terminated the Grimmel contract and feels it is long overdue. He stated on May 8, 2014, he requested a Council work session to discuss this matter and still has not received any response as of this date and feels that we need to strike now while the iron is hot. He stated we need to meet with people to get all of the ideas on the table. He stated that while the city works on a more permanent parking solution, this site could serve as temporary parking and could serve downtown workers and residents and prevent people from riding around and around Market Square looking for parking. He concluded that another idea could be a ferry service and feels that if we can put a man on the moon, we can do this.

Kerry Vautrot, member of the Portsmouth Historical Society, asked the City Council to carefully consider the appointment to the Historic District Commission stating that the applicant should have some background in historic preservation and incorporate industry standards. She stated that it will strengthen the HDC creditability if the look for the right candidate with the right credentials.

Rich DiPentima, stated that he expects the Newington Planning Board to approve the Sea-3 Expansion proposal without the requested studies. He stated if that occurs, the City of Portsmouth should appeal in an effort to protect the safety of our City. He stated if this goes unchallenged it can open the doors to more and bigger projects in the future. He stated over 700 signatures have been collected and he urged the Council to act accordingly.

Mark Brighton, distributed a tax graph showing the increase from 2008 – 2013. He stated there are some increases that can't be controlled such as the water and sewer rates, but feels that the School budget can be controlled. He concluded that if the Save our Working Port group can get a work session with the Council, then the Taxpayer's Association should be able to as well.

Bill St. Laurent, stated he was planning on attending the recent budget public hearing but was unable to attend and was wondering if there may be another opportunity for him to give his presentation that would take over the 3 minute limit of the public comment session. He stated that the Taxpayers Association has ideas on reducing and leveling the budget and want the opportunity to present the information to the Council.

Mayor Lister explained to Mr. St. Laurent that the public hearing held on May 12th was not closed and will be reconvened at 6:30 p.m. on May 27th prior to the budget work session.

Clare Kittredge, stated she strongly supports the current applicant being considered for the Historic District alternate position stating that it is important to have representatives of all different perspectives on boards and commissions.

Martha Fuller Clark, State Senator, stated she has been attending hearings for the last 6 months regarding the Sea-3 expansion and has introduced legislation regarding the safe delivery of gas and propane which has passed the House and is scheduled to go before the Senate next week. She stated there is a report due to be filed on or before May 1, 2015 and she concluded that she is available and happy to meet with the City Council anytime to discuss the issue.

VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant to Art-Speak
- The Portsmouth Museum of Art (Catherine Sununu) \$ 100.00
 - Helene Mullaney (individual artist) \$ 25.00
 - Sarah Haskell (individual artist) \$ 25.00
 - Seacoast Repertory Theatre \$ 150.00
 - The Music Hall \$ 150.00
 - The New Hampshire Charitable Foundation \$5,000.00

Councilor Kennedy moved to approve and accept the dues and grant money to Art-Speak, as listed. Seconded by Councilor Shaheen and voted.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Third reading and final 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 Kennedy moved to pass third and final reading of the proposed Ordinance amendment, as presented. Seconded by Councilor Dwyer and voted.

IX. CONSENT AGENDA

Councilor Spear moved to adopt the Consent Agenda as presented. Seconded by Councilor Morgan and voted.

- A. Letter from Mike Daboul, President, Seacoast Mavericks, requesting the installation of 30 outfield signs, 5 A-frame signs and a temporary storage trailer at Leary Field during the course of the season June 6th – August 7th (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Chris Pamboukes requesting permission to set up 1 or 2 stationary bicycles in downtown Portsmouth on any Sunday between June 1, 2014 – July 12, 2014 to begin a public awareness campaign for a community fundraising project Pedal For Power – 2000 miles for Solar (***Sample motion – move to refer to the City Manager with power (Vaughan Mall)***)
- C. Request for License from Philip Dube, owners of Off Piste for property located at 37 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 Philip Dube, owners of Off Piste on 37 Congress Street for a projecting sign at property located at 37 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***
- D. Letter from Mike Young, Portsmouth Babe Ruth, requesting permission to place 10 outfield signs, approximately 4' x 6' (dark green with white lettering) on the outer perimeter fencing facing inwards towards Leary Field from May 17, 2014 – August 17, 2014 (***Sample motion – move to refer to the City Manager with power***)

City Manager Bohenko clarified that the event requested by Mr. Pamboukes will be held at the Vaughan Mall.

City Manager Bohenko requested the Council consider an item that was inadvertently omitted from the agenda.

Letter from Caroline Amport Piper, 2014 Event Coordinator, on behalf of the Friends of the Soth End, requesting permission to hold the annual Fairy House Tour Event on Saturday, September 20, 2014 and Sunday, September 21, 2014.

Councilor Spear moved to refer to the City Manager with power. Seconded by Assistant Mayor Splaine and voted.

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Attorney Christopher Hilson, representing Richard B. Ireland, Jr. regarding injuries sustained to both his dog, Carter and Mr. Ireland during a dog attack

Councilor Spear moved to refer to the City Attorney for report back. Seconded by Councilor Morgan and voted.

- B. Letter from Jennifer Riley, One Love Brewery, requesting permission to sell sealed growlers of beer at the Farmer's Market

Councilor Spear moved to authorize the City Manager to negotiate and execute an amendment to the Farmer's Market agreement with Seacoast Growers to allow for the sale of sealed growlers of beer by One Love Brewery, seconded by Councilor Lown.

Councilor Thorsen asked if we currently have anyone else selling alcohol at the Farmer's Market. City Manager Bohenko stated that wine is sold by one vendor.

Motion voted.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

- 1. Proposed Loan Re: Reconstruction of Prescott Park Docks

Community Development Coordinator David Moore explained the Trustees of the Trust Funds in their role as manager of Prescott Park and the Prescott Trust, operate and maintain a series of marine docking and pier structures in the Park. Currently, the South Dock is in need of replacement, a project that was identified in the FY 2014 Capital Improvement Plan. Each year maintenance and repair costs for the dock continue to grow and the facility is well past its useful life having last been replaced in the early-1980s. He continued that City staff have coordinated closely with the Trustees on addressing the needs of the docking facility and, along with Appledore Marine Engineering, have recommended full replacement of the docking structure. Along with the North Dock, the South Dock slips are rented to visitors April to November. Ten seasonal slips are available to Portsmouth residents who dock their boats there for the season. He stated that the final amount of the funds requested will be dependent on the winning bid for the project. It is important to note, that after the 2014 boating season, the MMT will have cash on hand that can be used towards the construction (estimated to be \$60,000). This will reduce the amount needed from Committed Fund Balance. The Trustees have committed to replenish these funds and confirmed that the MMT revenues will be sufficient to meet this obligation.

He concluded that this financing structure has been used previously (in 1999) during the reconstruction of the North Pier project. That project, though smaller, resulted in a 13-year payback for a project that continues to serve the community.

Councilor Lown moved to authorize the City Manager to enter into an agreement with the Trustees of Trust Funds under which up to \$720,000 will be expended from Committed Fund Balance for the purpose of replacing the South dock system in Prescott Park with the funds to be replenished by payments from the Marine Maintenance Trust as available, seconded by Assistant Mayor Splaine.

Mayor Lister introduced Dana Levenson and Phyllis Eldridge of the Trustees and Peter Torrey, Accountant to the Trustees of the Trust Fund in the audience.

Councilor Lown thanked the Trustees for their work as well as Appledore Marine Engineering for their work at no charge. He stated the question is do we want to continue to have a city dock and he feels the answer is yes. He stated it is good for the city to have this amenity and is offered to residents at a lower fee than non-residents and the money will be paid back over time.

Councilor Kennedy asked if we are increasing the size of the piers and have we already gotten the approvals. Community Development Coordinator Moore stated yes the size is increased slightly and we have been approved by Army Corp of Engineers and will be going before the Executive Council very soon. Councilor Kennedy asked about the fees and are they going up at all. Mr. Torrey explained that the fees will remain the same in the upcoming season but there will be a \$1.00 per hour increase as well as a lineal foot increase.

Councilor Kennedy asked how the seasonal rate is determined. Mr. Torrey stated we want to be competitive but we don't offer the same amenities as some marinas so they try to keep it "middle of the road". Councilor Kennedy stated she encourages them to remain "middle of the road".

Motion voted.

2. Report Back Re: Landscape Façade Peirce Island Waste Water Treatment Facility

Water/Sewer Engineer Terry Desmarais gave a brief presentation regarding the 2 options before the Council regarding Biological Aerated Filter (BAF) height with 25' being the lowest without having to add a pump. He stated that if it has to go to 17' to remain at the roofline, there would be a significant cost involved.

Lorraine Black, registered landscape architect, AECOM – reviewed the 6 alternatives of natural facades as well as the various vegetation on the island and what could be introduced to the island. She concluded that their recommendation is a 2 layer design solution with native plantings and a modular trellis system with plants that are fast growing, native and tolerant of the islands' weather conditions.

Discussion ensued regarding the various options and costs associated.

Councilor Spear asked if we are specifically deciding on the issue of the façade with this vote. City Manager Bohenko stated if the Council decides to go with the 25' option, then we will seek out other committees' i.e., Trees and Greenery Blue Ribbon Committee, Peirce Island Committee, etc, for advice and input.

Councilor Spear moved to proceed with the 25' height option with alternatives as presented, seconded by Assistant Mayor Splaine.

Discussion ensued regarding the cost savings associated with the 25' option versus 17' option and ensuring that the landscaping will do what it is supposed to do.

Councilor Thorsen asked what kind of community feedback has been received and is this decision necessary this evening.

Engineer Desmarais stated that the decision will impact the construction schedule.

Deputy Public Works Director Goetz reiterated that the height decisions needs to be made before they began involving the committees.

Motion voted.

3. Proposal for Mobile Vending

Councilor Spear moved to authorize the City Manager to negotiate and execute a license to permit The Kitchen to vend from the designated parking space on Hanover Street from 7:00 a.m. to not later than 11:00 p.m., seconded by Councilor Thorsen.

City Manager Bohenko explained that the requestor was one hour late submitting the bid during the bid process so he brought it to the Council for their input. He stated he does not want to get into the habit of this but because it was only an hour late, he made an exception.

Councilor Shaheen asked if any residents have weighed in on the noise and time allowed. City Manager Bohenko explained that there are only 2 allowable parking spots for food trucks and the hours of operation are limited to 11:00 p.m. which is key to controlling these concerns.

Motion voted.

4. Report Back Re: Open Streets

Councilor Spear moved to refer to the City Manager with power, seconded by Councilor Morgan.

Councilor Morgan stated she attended the Citywide Neighborhood Committee where this was presented and Mr. Newbury listened to all of the concerns expressed.

Councilor Lown stated that this is an example of a private citizen who has an idea and spends the energy and time needed to make it happen. He stated this is to be commended and he hopes it is a successful event.

Councilor Kennedy agrees and stated she attended the meeting at the library and a lot of ideas were put into the proposal.

Motion voted.

5. Sale of Obsolete Parking Meters

Councilor Spear moved to authorize the City Manager to proceed with the disposal of the meters as recommended. Seconded by Councilor Dwyer and voted.

Informational Items

1. Events Listing – no discussion
2. Update Re: Presentation and Discussion with Cynthia Scarano, Executive Vice President of Pan Am Railways
3. Household Hazardous Waste Day, Saturday, May 31, 2014

City Manager Bohenko stated he continues to reach out to Ms. Scarano to set a date for her to meet with the City Council. Assistant Mayor Splaine asked that we accept Senator Fuller Clarks' offer to attend as well. City Manager Bohenko stated he also wants a representative from the NH DOT Railway division as well. Councilor Shaheen asked that the Congressional Delegation be invited as well.

B. MAYOR LISTER

1. Appointments to be Considered:

The following appointments were considered and will be voted at the June 2, 2014 Council meeting.

- Paul Mannle to the Citywide Neighborhood Steering Committee
- Dan Rawling to the Historic District Commission as a Regular Member
- Rick Becksted, Jr. to the Historic District Commission as an Alternate
- Tristan Law appointment to the Taxi Commission

2. Establish Work Session Re: Financial Disclosure

Councilor Spear moved to establish a Work Session on June 9, 2014 at 6:00 p.m. to discuss Financial Disclosures, seconded by Councilor Kennedy.

Councilor Spear stated that disclosing information is a good first step and prevents conflict of interest. He stated he would like part of the presentation to be a review of what is already on the books as he was surprised Councilor Kennedy voted on the Prescott Park Docks issue as it was a potential conflict of interest.

Motion voted.

C. ASSISTANT MAYOR SPLAINE

1. Sea-3/Pan Am Response

Assistant Mayor Splaine stated he has learned that the Town of Newington Planning Board has approved the Sea-3 Expansion unanimously this evening. He continued that we need to make sure that however we approach this, it is with a properly developed strategy. He stated that we need to consider the possibility of appealing to the Rockingham Superior Court in open court and he plans to take a vote to publicly appeal at the June 2, 2014 Council meeting. He stated between now and then the City Attorney can review the findings but the 30 days begin now so we need to act.

Councilor Lown stated that is a sensible idea but he would like to see the City Attorney's response and not prejudice the city's position. He stated he would have liked to have heard from the Pan Am representative as this is a Federal/State issue and we need answers.

Councilor Thorsen stated we need to show our residents that we do care about this and will take steps and efforts to mitigate the safety issue.

Councilor Shaheen stated this is a complicated issue and impacts multiple communities. She stated she would like to know if the City of Portsmouth can take a leadership role in a coalition of communities that are impacted and determine if there are grounds for a joint legal action.

City Manager Bohenko stated we have to become proactive and bring this to the Congressional and State Legislative Delegations as well as the Regional Planning Commission. He stated we are not going to let this die regardless of if there is a lawsuit or not and we are taking this very seriously and will be a transparent process.

Discussion ensued regarding a timeline for action resulting in the below motion and vote.

Councilor Lown moved to establish a Non-Meeting on June 2, 2014 or sooner (dependent on when the City Attorney has reviewed documents to advise the Council), to discuss legal strategy pursuant to RSA 91:A and to hold a public vote on June 2, 2014 on whether to pursue an appeal. Seconded by Councilor Spear and voted.

2. Future of Our North Cemetery

Assistant Mayor Splaine apologized to Sue Polidura who had been in the audience and was going to discuss this issue during the public comment session but didn't know she had to sign up to do so. He stated that she is concerned that the North Cemetery needs to be better taken care of and has a list of items to be addressed. He stated she is also planning a ceremony to recognize the ratification of the Constitution on June 21st as there are 19 revolutionary soldiers buried in the cemetery. Finally, he stated there is \$50,000 in the CIP for Cemetery repair with some of that for the North Cemetery and reminded everyone that when cuts are made to the budget, these are usually the types of things that get removed and we need to remember they need attention as well.

D. COUNCILOR LOWN

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the April 10, 2014 meeting

Councilor Spear moved to approve and accept the action sheet and minutes of the April 10, 2014 Parking & Traffic Safety Committee meeting, seconded by Councilor Shaheen. Motion passed 8-1, Councilor Kennedy voted opposed.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Kennedy stated she would like to address a previous comment by Councilor Spear regarding a conflict of interest she may have with the Prescott Park Dock vote. She stated she has no financial gain from Prescott Park in any way and is not a member of Prescott Park.

Councilor Morgan stated she would like to see a change in format for the next budget public hearing which allows for an additional public comment after the Council has discussed the budget as she feels this would be more productive.

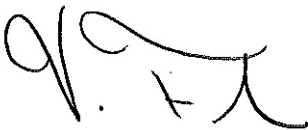
City Manager Bohenko stated the public hearing procedure is set up through the Charter but they can suspend the rules to add an additional session after going through the legal procedure first.

City Manager Bohenko then reviewed the upcoming budget meeting calendar.

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

Councilor Kennedy moved to adjourn at 10:00 p.m. Seconded by Assistant Mayor Splaine and voted unanimously.

Respectfully submitted:



Valerie A. French
Deputy City Clerk