

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: TUESDAY, FEBRUARY 17, 2015

PORTSMOUTH, NH  
TIME: 6:00PM

At 6:00 p.m., the City Council held a Work Session regarding AIRBNB.

### **I. CALL TO ORDER (7:00PM)**

At 7:10 p.m., Mayor Lister called the regular City Council meeting to order.

### **II. ROLL CALL**

Present: Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Lown, Dwyer (via conference call), Morgan, and Thorsen

Absent: Councilor Spear

### **III. INVOCATION**

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

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

Ralph DiBernardo led in the Pledge of Allegiance to the Flag.

Mayor Lister acknowledged Peter Rice, Public Works Director and the entire Public Works staff for all their work with the recent snow storms and their removal efforts. He requested that the residents be patient and understanding due to the amount of snow that we have had in the last week. He thanked Deputy City Manager Allen, Fire Chief Achilles and Police Chief Dubois for their work on relocating residents at Patriots Park to area hotels during this weekend because of damaged roofs from the snow impacts and affects.

## **PRESENTATIONS**

### **1. Pavement Management Program – Peter Rice, Public Works Director**

Director Rice provided a brief review of the program for the Pavement Management Process. He reviewed the pavement deterioration curve and the management history and reported the program began in 1997 and that there are 6 areas to the process. Director Rice reported on the Pavement Condition Index used to project averages for all City roads.

Councilor Kennedy spoke to her concerns regarding the life span of sidewalks.

City Manager Bohenko said the CIP next year will have the addition of appendixes for streets and sidewalks.

Councilor Kennedy would like to have a section on the website entitled Transportation Issues that would contain roads and sidewalks with categories.

City Manager Bohenko said everyone is very interested in streets and sidewalks and we are working on making the process friendly for its users and also look at several surveys to be created through Survey Monkey to residents on various topics.

Assistant Mayor Splaine thanked Director Rice for the information and the science of this. He said we know there are areas in the City that need sidewalks and asked how we would move that along in the process as a priority. City Manager Bohenko said next year we would provide a more aggressive plan for installing and reconstruction along with a rating system.

Director Rice explained the grant funding lost for Peverly Hill Road during the government sequester and how that funding will be coming to us and the need to look at a complete reconstruction of the road and sidewalks. City Manager Bohenko said that this is a high priority and he hopes we do not start earmarking funds then all our processes go out the window. He asked people that live on Peverly Hill Road to remain patient.

Mayor Lister asked once the Maplewood Avenue bridge replacement is completed is an assessment done on the traffic pattern change rerouting vehicles to Dennett Street to look at what impact that has had on the road way. Director Rice said that would be done.

2. Update Re: 21 Brewster Street – Robert Sullivan, City Attorney

City Attorney Sullivan provided a detailed update regarding 21 Brewster Street. He spoke to the history of the building and the issues relating to the building. He advised the City Council that he has not had any contact with Mr. Hogan but Mr. Hogan's lawyer is responsive and trial date has been set for May 28<sup>th</sup>.

**V. ACCEPTANCE OF MINUTES – FEBRUARY 3, 2015**

**Councilor Lown moved to approve and accept the minutes of the February 3, 2015 City Council meeting. Seconded by Councilor Morgan and voted.**

**On a unanimous roll call vote 8-0, motion passed.**

**VI. PUBLIC COMMENT SESSION**

Steve Little said the issue of AIRBNB is about the behavior. He reported that he has received a cease and desist letter from the City for his property. He said there needs to be some rules of conduct.

Ralph DiBernardo asked the City Council to ensure residential zoning. He said short term rentals impact residents and values on homes. He spoke to the small area between homes on Islington Street and that there is no room for extra parking.

John Palreiro spoke opposed to UBER being allowed to operate in the City. He stated that the insurance for drivers of UBER is not valid for the operation in the City and to transport people from place to place.

Margot Doering stated she use to run a BNB. She informed the City Council that there have always been private BNB's and they are known as homestead BNB's. Ms. Doering said BNB's are not viable in the downtown and that in 2004 there were 6 BNB's in the downtown and now there are only 3.

Barbara DeStefano spoke to insurance for AIRBNB and that homeowners policies would not cover such operations. She also said UBER drivers could not use their own car insurance to transport individuals because the policy would not cover that type of use.

Bernie Pelech spoke on AIRBNB issue and said some people have received letter to cease and desist and others have not and are still operating. He feels this matter should be dealt with through the zoning ordinance there should be a definition between someone that remains on the premises and one that is for when the owners leave the premises.

Jeff Cooper said something needs to be done and right away or you can do nothing. He does not agree with some people such as himself receiving a cease and desist order and others not. He said the original complaint filed against him was due to parking issues. He said there needs to be a clear definition of AIRBNB.

Paul Mannle endorsed the City refinancing bonds as long as we receive an integrated rate of 2% or lower and it does not affect our AAA bond rating. He would like to see us refinance all our bonds if we could get interest rates of 2% or lower.

## **VII. PUBLIC HEARINGS**

- A. RESOLUTION INCREASING THE MAXIMUM INCOME LIMIT FOR INDIVIDUALS QUALIFYING FOR THE ELDERLY REAL ESTATE TAX EXEMPTION:

### **PROPOSED INCREASE OF ELDERLY EXEMPTION BY 1.7%**

SINGLE	\$36,311.00 INCREASE OF \$607.00
MARRIED	\$44,793.00 INCREASE OF \$749.00
ASSET LIMIT OF	\$121,039.00 INCREASE OF \$2,023.00

Mayor Lister read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor Lister closed the public hearing.

- B. RESOLUTION INCREASING THE MAXIMUM INCOME LIMIT FOR INDIVIDUALS QUALIFYING FOR THE DISABLED REAL ESTATE TAX EXEMPTION:

### **PROPOSED INCREASE OF DISABLED EXEMPTION BY 1.7%**

SINGLE	\$36,311.00 INCREASE OF \$607.00
MARRIED	\$44,793.00 INCREASE OF \$749.00
ASSET LIMIT OF	\$121,039.00 INCREASE OF \$2,023.00

Mayor Lister read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor Lister closed the public hearing.

### VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant from the New Hampshire Charitable Foundation – Piscataqua Region Community Fund for the Portsmouth Smart Growth Presentation and Work Shop - \$4,500.00

**Councilor Kennedy moved to approve and accept from the New Hampshire Charitable Foundation \$4,500.00 for funding of Portsmouth Smart Growth for 21<sup>st</sup> Century (PS21) sponsorship of Jeff Speck Presentation and Workshop on Walkability. Seconded by Councilor Morgan.**

**On a unanimous roll call vote 8-0, motion passed.**

### IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Proposed Bond Resolution of up to (\$3,460,000) Three Million Four Hundred Sixty Thousand Dollars to Refinance the remaining portion of a Callable Bond issued August 1, 2005 and all related costs

**Councilor Shaheen moved to pass first reading and schedule a public hearing and adoption at the March 2, 2015 City Council meeting of the proposed Bond Resolution of up to Three Million Four Hundred Sixty Thousand Dollars (\$3,460,000) to refinance the remaining portion of a callable bond issued August 1, 2005 and all related costs. Seconded by Councilor Lown.**

Councilor Thorsen and City Manager Bohenko discussed bond premiums and the process used in issuing them and their use.

**On a unanimous roll call vote 8-0, motion passed.**

- B. Adoption of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Elderly Real Estate Tax Exemption:

**Proposed increase of Elderly Exemption by 1.7%**

Single	\$36,311.00 increase of \$607.00
Married	\$44,793.00 increase of \$749.00
Asset Limit of	\$121,039.00 increase of \$2,023.00

**Councilor Lown moved to adopt the proposed Resolution increasing the Maximum Income Limit for Individuals Qualifying for the Elderly Real Estate Tax Exemption by 1.7%, as presented. Seconded by Councilor Kennedy.**

Councilor Kennedy asked how we came up with 1.7%. City Manager Bohenko said CPI and social security were both at 1.7% when we looked at them in November.

**On a unanimous roll call vote 8-0, motion passed.**

- C. Adoption of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Disabled Real Estate Tax Exemption:

**Proposed increase of Disabled Exemption by 1.7%**

Single	\$36,311.00 increase of \$607.00
Married	\$44,793.00 increase of \$749.00
Asset Limit of	\$121,039.00 increase of \$2,023.00

**Councilor Lown moved to adopt the proposed Resolution increasing the Maximum Income Limit for Individuals Qualifying for the Disabled Real Estate Tax Exemption by 1.7%, as presented. Seconded by Councilor Shaheen.**

**On a unanimous roll call vote 8-0, motion passed.**

**X. CONSENT AGENDA**

- A. Letter from Kelly Heinze, Alzheimer's Association, requesting permission to hold the Seacoast Walk To End Alzheimer's on Sunday, October 4, 2015  
***(Anticipated action – move to refer to the City Manager with power)***
- B. Acceptance of Donations to the Art-Speak Annual Appeal:
- Jack and Pamela Blalock - \$50.00
  - Laurence McCullough - \$100.00
- (Anticipated action – move to approve and accept the donations to the Art-Speak, as listed)***
- C. Acceptance of Donation for PACA Membership Dues (Art-Speak)
- Pinetree Institute - \$75.00
- (Anticipated action – move to approve and accept the membership dues for Piscataqua Arts & Cultural Alliance, a program of Art-Speak, as listed)***
- D. Letter from Ashleigh Tucker, The Music Hall, requesting permission to hold the second annual Music Hall Open House event on Saturday, June 27, 2015  
***(Anticipated action – move to refer to the City Manager with power)***

**Councilor Kennedy moved to adopt the Consent Agenda, as presented. Seconded by Councilor Shaheen.**

**On a unanimous roll call vote 8-0, motion passed.**

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

- A. Letter from Jerry Zelin regarding Harborcorp – Restrictive Covenant for Casino

**Councilor Kennedy moved to refer to the City Attorney for report back and to send copies of the letter to the Planning Board, Zoning Board of Adjustment and Historic District Commission for review. Seconded by Assistant Mayor Splaine.**

**On a unanimous roll call vote 8-0, motion passed.**

- B. Letter from John Rawlings regarding 2 AIRBNB operating in his neighborhood which strongly impacts their quality of life and potentially property value

**Councilor Kennedy moved to accept and place the letter on file. Seconded by Councilor Lown.**

**On a unanimous roll call vote 8-0, motion passed.**

- C. Letter from Lauren Moore, Sexual Assault Support Services, requesting permission to set up a small table in Market Square in front of the North Church to hold the first annual Clothesline Project for one day in March or April (suggested dates listed in letter) from 11:00 a.m. to 3:00 p.m.

**Councilor Kennedy moved to refer to the City Manager with power. Seconded by Councilor Shaheen.**

**On a unanimous roll call vote 8-0, motion passed.**

- D. Letter from Ellen & Dexter Legg requesting the City to maintain the integrity and characteristics of the neighborhoods of Portsmouth and protect all property owners by prohibiting short term rentals in residential districts

**Councilor Kennedy moved to accept and place the letter on file. Seconded by Councilor Morgan.**

**On a unanimous roll call vote 8-0, motion passed.**

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

### **A. CITY MANAGER**

1. Adoption of Proposed Capital Improvement Plan (CIP) FY2016 - FY2021

**Assistant Mayor Splaine moved to adopt the Capital Improvement Plan FY2016 – FY2021. Seconded by Councilor Shaheen.**

**Councilor Thorsen moved to amend the Capital Improvement Plan as follows:**

- **Page 46 – Fire Station 3 Replacement move from FY16 to FY17**
- **Page 48 – Police Department Land Acquisition move from FY16 to FY17**
- **Page 49 – Police Department Facilities move from FY17 to FY18**
- **Page 94 – Bike PED replacement of \$50,000.00 from General Fund with \$1 million appropriation in FY15 from bonding**
- **Page 39 – Fire Engine 4 move from FY17 to FY16**

**Seconded by Councilor Morgan.**

Councilor Thorsen said bond prices are good and we should move forward with these projects and some of them have safety issues involved.

Councilor Kennedy said she is concerned with the large number we are bonding. City Manager Bohenko said the financial summary section outlines costs. He said once the plan is adopted it would be reduced to cost in the budget and the line item would be increased to add back in Fire Engine #4.

Police Chief Dubois stated that we would need the right space for the right project for the Police Department Facilities. He said you also need to consider that construction costs increase each year.

City Manager Bohenko said with the addition of Fire Engine #4 would be a net increase of \$95,000.00.

Councilor Lown spoke in favor of the Bike PED plan. He said the Council needs to decide if it wants to pay now or pay later. He said the Bike PED plan was supported 3 years ago and it took 3 years to produce the plan.

Councilor Dwyer spoke to the Police Department Facilities and that we cannot retrofit the current building.

Councilor Shaheen feels that we need to look for land as described by Chief Dubois for a new facility.

**On a unanimous roll call vote 8-0, amendment to motion passed.**

Assistant Mayor Splaine stated he would support the main motion as amended. He would like to make sure that in the future we focus a little more on the needs of the City as a whole.

Councilor Thorsen said he would support the Capital Improvement Plan this year because there are many safety issues.

**On a unanimous roll call 8-0, voted to adopt the Capital Improvement Plan FY2016 – FY2021, as amended.**

**Councilor Lown moved to suspend the rules in order to continue the meeting beyond 10:00 p.m. Seconded by Councilor Morgan.**

**On a unanimous roll call voted 8-0, motion passed.**

3. Request for WSCA Antenna License

**Councilor Shaheen moved to authorize the City Manager to enter into a five year License Agreement with WSCA for the installation and operation of an antenna at WSCA's cost. Seconded by Councilor Morgan.**

**On a unanimous roll call vote 8-0, motion passed.**

At 10:15 p.m., Mayor Lister called for a brief recess. Mayor Lister called the meeting back to order at 10:25 p.m.

2. Request for First Reading of \$23.2 Million Dollar Bond Re: Proposed Second Parking Garage at 165 Deer Street

City Manager Bohenko said a Work Session was held on this matter on February 5<sup>th</sup> to keep this moving along and for public discussion.

**Councilor Shaheen moved to authorize the City Manager to bring back for first reading a \$23.2 Million Dollar Bond for a proposed second parking garage at the March 16, 2015 City Council meeting, as presented. Seconded by Assistant Mayor Splaine.**

Councilor Morgan said we need a parking structure around the north end but feels the cost is high with the plan of increasing the rates of High Hanover Parking Garage and the meters that would create a greater distance for people to find parking. She said there needs to be resident parking passes in the areas and would like to see something come forward. Councilor Morgan said that Councilor Smith had worked on this matter in the past while serving on the Council. City Manager Bohenko said this is something we could work on and he provided a pro-forma to keep the item moving.

Councilor Kennedy said she is going to request as we go through the vision we include our transportation plan and how that looks. She said her neighborhood did not want this and did not see this as an option. Councilor Kennedy expressed concern with the height of the conference center building.

Councilor Shaheen said this will create 600 parking spaces in the City and she knows of 5 small business owners that have left downtown because there patrons could not find parking.

Assistant Mayor Splaine said he would like to look at discount rates for downtown parking. He said maybe we don't need to send all the money back to the general fund. He said we need to make sure the public is greatly involved.

Councilor Dwyer said we keep forgetting that we have a transportation plan that we invested great time on the planning and we have a bike pedestrian plan. She agrees with Assistant Mayor Splaine and she said there is a well known social physiology strategy that you can make problems so large that we can't solve them and she is afraid we are in danger of doing that. She said we need to act pieces because if you keep putting it off you never get there.



Councilor Lown said there was a Transportation Committee and issued a report in 2013.

**On a unanimous roll call vote 8-0, motion passed.**

**Informational items**

- Snow Removal Cost Summary

City Manager Bohenko provided a memorandum from Public Works Director Rice regarding the snow removal cost which does not include the load out this evening or later this week. He reported currently the total snow budget is over 106% with \$604,810.41 expended. He stated that he would be coming back at a future meeting to request a special appropriation for the snow removal budget.

Deputy City Manager Allen spoke to the property manager today and they are ahead on the removal of snow at Patriots Park. He said 2 of the 8 buildings failed from the snow. He said the company they have working to remove the snow is there 24/7 and there is also a structural engineer on site. He said they should have the first of repairs done tomorrow. Deputy City Manager Allen informed the City Council that residents were staged as far away as Kennebunk and now everyone is back in the City housed at local hotels.

Assistant Mayor Splaine expressed concerns about other roofs with the amount of snow on them. He said if a tenant is concerned with their roof and calls the landlord and they do not act in any way what should the person do. Deputy City Manager Allen said residents should contact the Building Inspector. City Manager Bohenko said they could call him, Deputy City Manager Allen or the Building Inspection Department.

Councilor Shaheen would like to know about alternatives to make up the snow days in the schools. City Manager Bohenko said he would speak with Superintendent McDonough on this matter.

- Land use Compliance

Councilor Morgan asked about the Land Use Compliance position.

City Manager Bohenko left the meeting and had Deputy City Manager Allen assume his seat at the Dias.

Deputy City Manager Allen said Vincent Hayes has been hired as our Land Use Compliant Agent and has already found some items that were not done in accordance with plans submitted by contractors. He reported a project on South Street their plans as approved by the Historic District Commission to construct wooden steps and concrete steps were put in place instead and now they will need to go back to the Historic District Commission requesting the change.

**Councilor Lown moved to table the remainder of the City Council Agenda until the March 2, 2015 City Council meeting. Seconded by Councilor Thorsen. Items remaining area as follows:**

- **Assistant Mayor Splaine – Letter requesting a Resolution to the U.S. Supreme Court In Support of Marriage Equality**
- **Councilor Kennedy – Portsmouth Small Business. How is the city supporting small businesses:**
- **Councilor Morgan – Impact Fees**

**On a roll call vote 6-2, motion passed. Assistant Mayor Splaine, Councilors Shaheen, Lown, Dwyer, Thorsen and Mayor Lister voted in favor. Councilors Kennedy and Morgan voted opposed.**

Deputy City Manager Allen announced that the Islington Street Charrette will be held on February 20, 2015 through February 23, 2015 at the Frank Jones Center. He said the closing of the Charrette would be held at City Hall on Monday, February 23, 2015 at 6:30 p.m. in the Eileen Dondero Foley Council Chambers.

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

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

**At 11:15 p.m., Councilor Shaheen moved to adjourn. Seconded by Councilor Thorsen and voted.**



Kelli L. Barnaby, MMC, CMC, CNHMC  
City Clerk