

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, JULY 20, 2015
(Reconvened from JULY 13, 2015 meeting)

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

I. CALL TO ORDER (7:00 P.M.)

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

IV. PLEDGE OF ALLEGIANCE

Mayor Lister requested Tony Coviello from the audience to lead the Pledge of Allegiance.

V. PUBLIC COMMENT SESSION

Councilor Kennedy moved to suspend the rules to open a new public comment session at the reconvened meeting from July 13, 2015, seconded by Councilor Shaheen. Motion voted.

Tony Coviello – spoke regarding the Frank Jones property rezoning stating he is in support of his neighbors who want a connector road as it will affect the quality of life of at least 100 people in the neighborhood. He stated he doesn't want to see this fail because of an inability to find common ground and feels there is confusion with some of the Councilors on whether this is about a connector road or not.

Becky Vardell – stated she has lived at the corner of Thornton and Bartlett Street for 5 years and is affected everyday by the traffic, including trucks, 18 wheelers. She continued that the houses were not built to withstand that type of shaking and rattling all day every day. She stated she has spoken with many of her neighbors and although the issue isn't clear, it is clear that they all want a connector road. She stated this also impacts the New Franklin Elementary School.

Patricia Bagley – stated she agrees with the previous speakers regarding the Frank Jones property rezoning and feels that people are confused because of all of the different zoning issues that have been ongoing. She suggested postponing the vote to allow the City Manager to purchase the 12 acre property and then the City can do what we want with it and not depend on a developer. She stated this is a great opportunity to develop the west end.

Dick Bagley – stated that during the recent Charette a developer said that the property would be divided and that someone in the vicinity of the Ricci property was interested in taking all of the property to address the connector road. He feels that this should wait until the west end Charette report comes back. He stated that the Attorney representing the seller has indicated they are okay with waiting and exploring the possibility of purchase by the City. He continued that a Gateway District is better than Industrial and urged the Council to postpone the vote.

Bernie Pelech – Attorney representing Portsmouth Land Acquisitions stated that the Council has already vote 4-5 to NOT allow the purchase of the property by the City and they would need a 2/3 vote to reconsider. He stated that the Council should vote in favor of rezoning tonight because if it is not voted tonight, then there will be no chance of a connector road as there are 2 interested industrial users ready and waiting. He also clarified that the price of the property will not change regardless of who buys it and stated this has been ongoing for 1 ½ and its time to move forward.

Ralph DiBernardo – spoke against the short-term rental ordinance proposal. He stated that this could get out of control and impact the city negatively in regards to noise, parking problems, enforcement of the ordinance, etc. He stated that there are companies buying homes to be used specifically for this purpose and does not feel that this should be allowed.

Mark Brighton – stated he usually doesn't speak in favor of spending money needlessly but feels that the purchase of the Frank Jones property by the City would be an opportunity to see a dividend on his property tax. He feels that there are a plethora of possibilities for the land, but doesn't feel it needs to be rezoned.

Paul Mannle – stated he would like the Council to postpone 3rd reading on the Frank Jones property rezoning indefinitely and open up the possibility for the City Manager to purchase the property. He stated he cannot find a downside to purchasing the property and feels that it would be good public policy and improve the quality of life for many residents.

VIII. APPROVAL OF GRANTS/DONATIONS

(There were no Items under this Section of the Agenda)

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

Mayor Lister requested that the Council consider limiting discussion of first readings of the ordinance and refer to the second reading and public hearings in order to move the agenda along. After some discussion, the Mayor withdrew his request.

- A. First reading of Ordinance amending Chapter 10 as follows:
- (1) Amend Section 10.440, Table of Uses, by adding a new use #10.30 – Short-term vacation rental”, modifying the standards for use #10.50 – “Hotel or motel”, and combining “conference hotel” and “conference center” into a single use;
 - (2) Insert a new Section 10.837.20 – Short-Term Vacation Rentals;
 - (3) Amend Article II – Site Development Standards to establish an off-street parking requirement for short-term vacation rental; and
 - (4) Amend Article 15 – Definitions, by revising the definitions of “Bed and Breakfast” and adding new definitions for “Short-term vacation rental” and “Transient”

Councilor Spear moved to pass first reading and schedule a public hearing and second reading for the August 3, 2015 City Council meeting, as presented. Seconded by Councilor Dwyer.

Councilor Kennedy stated that this doesn't talk about people living in the homes, renting rooms renting out the whole house, etc.

Councilor Thorsen stated he was on the Planning Board at the time this was discussed and it was thought to be too restrictive. He stated that the geographical limitations are too strict as well.

Councilor Dwyer stated she agrees and feels that there are too many variables and feels that monitoring and penalties need more clarification.

Discussion ensued regarding the need for additional work on the ordinance language including expanding the geographic area, owner on premises, penalty and enforcement, etc.

City Attorney Sullivan stated that the penalty is regulated by State RSA. City Manager Bohenko stated that New Hampshire is not a Home Rule State so we have to find it in the Statutes.

Assistant Mayor Splaine moved to table first reading to August 3, 2015 City Council meeting. Seconded by Councilor Shaheen and voted.

- B. First reading of Ordinance amending Chapter 11, Article II, Section 11.216:B - Sewer User Charges/Records/Hook-Up by the Elimination of Irrigation Meters

Councilor Spear moved to pass first reading and schedule a public hearing and second reading for the August 3, 2015 City Council meeting, as presented. Seconded by Councilor Lown. Motion voted.

- C. First reading of Ordinance amending Chapter 7, Article I, Section 7.1 – Parking Meters, Section 7.102 Parking Meter Zones (A) Downtown High Occupancy Zone – Parking Rate shall be one dollars and seventy-five cents (\$1.75) per hour and (B) Parking in all other parking meter zones shall be at the rate of one dollars twenty-five cents (\$1.25) per hour and EasyPark Resident Discount

Councilor Spear moved to pass first reading and schedule a public hearing and second reading for the August 3, 2015 City Council meeting, as presented. Seconded by Councilor Dwyer.

Councilor Thorsen stated that it had been previously discussed that raising the price was going to be for the maintenance of the parking garage and asked if that was the case and also will it help pay for the new garage. City Manager Bohenko clarified that this is not to pay for maintenance but is for the Parking Enterprise Fund. He continued that the increase is consistent with parking management recommendations in regards to high occupancy areas.

Motion voted.

- D. First reading of Ordinance amending Chapter 10 – Zoning Ordinance by the addition of Character-Based Zoning North End

Councilor Spear moved to pass first reading and schedule a public hearing and second reading for the August 3, 2015 City Council meeting, as presented. Seconded by Assistant Mayor Splaine.

Councilor Kennedy asked if there will be any more public comment on this issue.

City Manager Bohenko stated that this has been through the Charette process and there will be a public hearing scheduled as well.

Discussion ensued regarding the various meetings held with public comment opportunities since May 2015 and that all of the meetings have been taped and are available on you-tube.

Councilor Dwyer stated that she feels that these issues are becoming hard to follow between the North End, Character Based zoning, West End, etc. and feels that a work session would be helpful but not a presentation.

Councilor Kennedy asked when amendments should be offered. City Manager stated that once feedback has been received at the work session, amendments can be made at the second reading and if necessary, the public hearing can be held open to the following meeting.

Discussion ensued regarding the workforce housing definition with Planning Director Taintor clarifying that this is a minor portion of the ordinance and would rather remove it entirely in order to move the process along.

After discussion, mover and seconded agreed to add a work session to be held at 6:00 p.m. prior to the August 3, 2015 City Council meeting as part of the original motion to pass first reading and schedule a public hearing and second reading for the August 3, 2015 City Council meeting. Motion voted as amended.

- E. Second reading of Ordinance amending Chapter 7, by the addition of a new Article II – Transportation Services (*New Proposed Amended Language*)

See August 3, 2015 City Council meeting minutes for action on this item.

- F. Third and final reading of Ordinance amending the Zoning Map by rezoning the following lots from Industrial (I), Office Research (OR) or Municipal (M) to Gateway (GW):
- Assessors Map 163, Lots 33, 34 and 37;
 - Assessors Map 165, Lots 1, 2 and 14;
 - Assessors Map 172, Lots 1 and 2;
 - Assessors Map 173, Lots 2 and 10;
- and including Cate Street between Hodgson's Brook and Bartlett Street; and amending the Zoning Ordinance as follows:
- Article 7, Section 10.730 – Gateway Planned Development:
 - Amend Section 10.734.20 – Lot Requirements, by establishing front yard standards relative to streets other than Lafayette Road;
 - Amend Section 10.734.33 by modifying the maximum building height standards;
 - Insert a new Section 10.734.40 – Workforce Housing Incentives, to allow increased building height and building length, and to allow parking to be located in a required front yard or between a principal building and a street, for a Gateway Planned Development that contains 10% or greater workforce housing units.
 - Article 15 – Definitions:
 - Amend Section 10.1530 – Terms of General Applicability, by inserting definitions of “workforce housing” and “workforce housing unit.”

Councilor Spear moved to remove item from the table from the June 15, 2015 City Council meeting. Seconded by Councilor Shaheen and voted.

Councilor Spear moved to pass third and final reading of the proposed Ordinance amendment, as presented, seconded by Councilor Shaheen.

Councilor Kennedy asked if we will be guaranteed an access road by passing this ordinance. City Manager Bohenko stated that the Planning Board would require the access road and the developer has indicated they would work with the City. Councilor Kennedy asked if tractor trailers would be allowed on this road. City Manager Bohenko stated yes, it would be built to City specifications and would be an active city street.

Councilor Lown recused himself from the discussion and vote.

Councilor Thorsen stated that this property is valuable to the city for the roadway and although there are other issues, he will support this tonight.

Assistant Mayor Splaine stated that this is a commonality of interest in that there is support for a connector road and how to make that happen. He stated that we should ask the City Manager to talk with the owner and representatives of the property and figure out what is best for all involved and see what can be done in terms of public/private partnership.

Councilor Shaheen stated she is trying to preserve as many options as possible and get the connector road. She then asked for confirmation that if this is voted down and the current zoning remains industrial, there is nothing stopping the owner from selling the property for that use and there would be no guarantee for the connector road. City Manager Bohenko stated that the one caveat would be that the city could take it by eminent domain. Councilor Shaheen asked how long would the process take. City Attorney Sullivan stated it could take several years to resolve. Councilor Shaheen asked if instead of postponing the vote and this doesn't pass, could the Council direct the City Manager to open negotiations with the property owner. City Attorney Sullivan explained that co-mingling of the city buying the property and also rezoning is not good but if the majority of the Council voted in favor of the ordinance another motion could then be made after that vote.

Councilor Dwyer stated that it is crystal clear that the right decision is to pass the 3rd reading and then have the City Manager look at options. She stated she is a fan of having Gateway all the way up Route 1 but feels that people are confused about what gateway zoning.

Councilor Kennedy stated she is concerned that we don't have control over this property and no commitment to build the connector road. She feels that people are looking to have that property used for some type of civic space and would rather see the city buy the property. She stated that she doesn't think truck traffic on the connector is a good idea and that there should be bicycle access as well.

Motion passed on a 7-2 vote. Assistant Mayor Splaine and Council Kennedy voted opposed.

Councilor Shaheen moved to direct the City Manager to open negotiations or explore discussions with the property owner, seconded by Assistant Mayor Splaine.

Assistant Mayor Splaine stated that the goal of this would be for the purpose of creating a connector road.

Councilor Lown returned to the dais as the zoning portion of the vote was concluded. He stated he doesn't see where it would be beneficial for the city to buy the property.

Councilor Kennedy stated she would like to see the options of a Police Station or Transportation Center on the property explored as well.

Councilor Thorsen asked if this should be a reconsideration of the previous vote that failed for the City Manager to negotiate to purchase the property. City Attorney Sullivan explained the procedure and stated that this is the appropriate process at this time.

After much discussion, Deputy Clerk French was asked to read back the motion for clarification which she understood to be "to direct the City Manager to open negotiations with the property owner".

City Manager Bohenko stated he understood the motion to be "The City Manager be directed to negotiate on the purchase of the property as has been discussed this evening".

Councilor Lown asked if it was for the whole property.

Councilor Shaheen restated her motions as follows: **"To direct the City Manager to open negotiations with the property owner in whole or in part". Seconder agreed.**

Motion passed on a 9-0 roll call vote.

X. CONSENT AGENDA

Councilor Shaheen moved to adopt the Consent Agenda as presented. Seconded by Councilor Lown and voted.

- A. Request for License from Mary Dolan, owner of Starling Hair & Beauty for property located at 5 Market Street for a projecting sign located on Daniel Street on an existing bracket ***(Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Mary Dolan, owner of Starling Hair & Beauty for a projecting sign located on Daniel Street on an existing bracket 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. Request for License from Patricia Snider, owner of The Glass Pear for property located at 10 Commercial Alley for a projecting sign located on an existing bracket (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Patricia Snider, owner of The Glass Pear for a projecting sign located on 10 Commercial Alley on an existing bracket 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***

- C. Request for License from Kristen Ward, owner of Wanderbird Floral for property located at 94 Pleasant Street for a projecting sign located on an existing bracket (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Kristen Ward, owner of Wanderbird Floral for a projecting sign located on 94 Pleasant Street on an existing bracket 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. Request for License from Nicole Ray & Laurie Rourke, owners of In Boston Salon, LLC for property located at 168 Fleet Street for a projecting sign located on an existing bracket and a canopy on an existing frame (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Nicole Ray & Laurie Rourke, owners of In Boston Salon, LLC for a projecting sign located on 168 Fleet Street on an existing bracket and a canopy on an existing frame 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***

- E. Request for License from Melissa Lake, owner of Better Homes & Garden Real Estate for property located at 79 Congress Street for a projecting sign located on a new bracket (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Melissa Lake, owner of Better Homes & Garden Real Estate for a projecting sign located on 79 Congress Street on a new bracket 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***

- F. Request for License from Mohammed Enyat, owner of ABC Fine Rugs, Inc. for property located at 50 Daniel 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 Mohammed Enyat, owner of ABC Fine Rugs, Inc. for a projecting sign located on 50 Daniel Street on an existing bracket 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***

- G. Request for License from Rossli Chace, owner of Lashbar for property located at 10A Ladd 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 Rossli Chace, owner of Lashbar for a projecting sign located on 10A Ladd Street on an existing bracket 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***

- H. Letter from Martha Netsch, Seacoast Rotary International Chair, requesting permission to hold the Polio Plus Memorial Bridge Walk on Saturday, October 24, 2015 (***Anticipated action – move to refer to the City Manager with power***)
- I. Letter from John Linville, Event Coordinator, Federal Employees Metal Trades Council, Portsmouth Naval Shipyard, requesting permission to hold Pedals for Paws charity bicycle ride and adoption event on Saturday, August 22, 2015 (***Anticipated action – move to refer to the City Manager with power***)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Bernard W. Pelech regarding Third and Final Reading of Gateway Zoning for the West End

Councilor Spear moved to accept and place on file along with a previously submitted letter. Seconded by Councilor Shaheen and voted.

- B. Letter from David Whitham regarding Zoning Ordinance Changes pertinent to Short Term Vacation Rentals

Councilor Kennedy moved to accept and place on file. Seconded by Councilor Shaheen and voted.

- C. Letter from Abby and Jeffrey Cooper regarding Short Term Vacation Rentals – Home Occupation Permit

Councilor Shaheen moved to accept and place on file. Seconded by Councilor Kennedy and voted.

- D. Letter from Jim Merrill, The Bernstein Shur Group regarding Proposed Uber Edits to Draft Transportation Services Ordinance

Councilor Kennedy moved to accept and place on file, seconded by Councilor Shaheen.

Councilor Lown stated there are a number of sensible suggestions and would like the Council to address them at some point.

Councilor Shaheen stated that this was discussed when the ordinance was adopted on August 3rd and it was agreed that they would live with the new ordinance for 4-6 months and revisit at that time.

Assistant Mayor Splaine moved to amend to refer to the Taxi Commission, seconded by Councilor Shaheen. Motion voted as amended.

- E. Letter from Lawrence Cataldo regarding exempting ride-share operations

Councilor Shaheen moved to refer to the Taxi Commission. Seconded by Councilor Kennedy and voted.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Replacement of Municipal Alarm System

Chief Achilles spoke regarding the replacement of the Municipal Alarm System stating the department is moving forward with the replacement of the Master Box system in our municipal buildings with a commercial radio transceiver system. This project has been identified in the FY15 CIP and is a result of our need to comply with recent changes to *NFPA 101 - Life Safety Code* or *NFPA 72 - National Fire Alarm Code* (requirement that the system monitor not only alarms, but trouble and supervisory signals). He continued that the fire department is looking at transitioning the entire municipal alarm system from city-owned master and street boxes to private, central station alarm monitoring services over the next couple years and are currently directing new occupancies to this approach. He concluded that City Ordinance, Chapter V, Section 5.503 requires approval of the City Council for permanent removal of fire alarm boxes.

Councilor Kennedy asked if people pull the alarms when needed and what will the new system be like. Chief Achilles stated there will be no noticeable difference as street boxes were important before cell phones, but now they are most usually pulled as a prank. He further explained the dispatch process.

Councilor Kennedy asked if there will be an additional cost. Chief Achilles stated there will be nothing to residents but new occupancies will be directed to the new system and will be through 3rd parties.

Mayor Lister asked if there will be any training for people in the community and also, how will the hearing impaired be notified. Chief Achilles stated it will be the same stating that municipal buildings will be replaced first then non-city buildings through a third party, and all transitions should be completed by 2017.

Councilor Spear moved to approve the request for the permanent removal of the municipal fire alarm boxes. Seconded by Councilor Dwyer and voted.

2. Report Back Re: Land Donation (Map 296, Lot 2)

Councilor Spear moved to accept the donation of the 6.6 acre parcel (Map 296, Lot 2) as recommended by the Planning Board and Conservation Commission, and further, authorize the City Manager to execute all necessary documents. Seconded by Councilor Shaheen and voted.

3. Request for First Reading for Bonding Resolutions:

- Resolution for Borrowing Authorization of up to Six Million One Hundred Thousand Dollars \$6,100,000 for FY16 Citywide Bike/Pedestrian, Street, and Sidewalk Improvements
- Resolution for Borrowing Authorization of up to Six Hundred Thousand Dollars (\$600,000) for FY16 purchase of Fire Apparatus (Page 39 of CIP FY16-21)
- Resolution for Borrowing Authorization of up to Five Hundred Thousand Dollars (\$500,000) for FY16 School Facilities Improvements (Pages 50-51 of CIP FY16-21)
- Resolution for Borrowing Authorization of up to Four Million One Hundred

Thousand Dollars (\$4,100,000) related to Water System Upgrades and Improvements

- Resolution for Borrowing Authorization of up to Four Million Dollars (\$4,000,000) for FY16 Sewer System Upgrades

Councilor Spear moved to bring back for first reading the various aforementioned proposed CIP projects to be bonded, as presented, for the August 3, 2015 City Council Meeting. Seconded by Councilor Shaheen and voted.

Councilor Kennedy asked why the city does bonding resolutions in the summer when people are on vacation. City Manager Bohenko explained that because the budget is adopted in June and then we need authorization by the Council in order to go out to bid. He stated that if we waited until fall, which we can do, then it pushes projects back that much further.

At the request of Councilor Dwyer, City Manager Bohenko read the resolutions aloud for the listening public.

4. Request to Dispose of Surplus Equipment and Vehicles

Councilor Lown moved to authorize the City Manager to dispose of surplus equipment and vehicles by the sealed bid process. Seconded by Councilor Spear.

Councilor Kennedy stated that we are retiring 2011 vehicles and asked what the life expectancy is when we purchase vehicles. City Manager Bohenko explained that we are on a 3 year cycle with police vehicles because they run 24/7 and it is not necessarily the mileage but the wear and tear.

Motion passed 8-1, Councilor Kennedy voted opposed.

City Manager Bohenko stated that we are converting to different vehicles so there will be different longevity expectations in the future.

5. Request for Acceptances of Sidewalk Easement Re: 233 Vaughan Street, LLC

Councilor Spear moved to authorize the City Manager to accept a required sidewalk easement from 233 Vaughan Street, LLC. Seconded by Councilor Dwyer and voted.

6. Report Back Re: St. Nicholas Greek Orthodox Church Back Lot (Map 229, Lot 6-A)

Councilor Spear moved to accept the Planning Board's recommendation:

- A) The City Council accept Ledgewood Drive up to the cul-de-sac as a City Street.**
- B) The City Council defer action on the requested easement until a specific site plan has been prepared for submission to the Planning Board.**

Councilor Dwyer asked if the name should be reconsidered because of E911 concerns with names of streets that sound the same i.e., Ledgewood, Edgewood, Wedgewood.

Motion passed.

Informational items

1. Events Listing
2. Report Back Re: Roberts Investigatory Panel Report

Councilor Kennedy asked City Attorney Sullivan to discuss the Report Back regarding the Roberts Investigatory Panel Report.

City Attorney Sullivan stated that the City Council requested him to determine the legal options, rights, remedies and obligations that the City Council has concerning the finding of the Roberts Report with the focus of the inquiry being the division of responsibility between the City Council and the Police Commission. He continued that the City Charter provides that the policymaking body for the Police Department in the City of Portsmouth shall be a Police Commission and moreover that the Commission shall assume all administrative responsibilities which would otherwise be vested in the City Manager. He stated that the primary area in which the City Council would have the power to determine such cooperation would be in the area of the budget, which is a function of the government that the City Charter allocates primarily to the City Manager and City Council. Finally, he stated that the report also comments that the citizens of Portsmouth may want to consider whether the Police Commission continues to be the appropriate governing entity or whether a Charter amendment should be considered to eliminate the Police Commission. He stated that the Council has already taken action on bringing forward potential Charter changes for the upcoming municipal election.

Councilor Kennedy stated that some of the speakers at public comment have indicated the Council could vote out members of the Police Commission and asked for clarification. City Attorney Sullivan stated that is the case but there would need to be an articulable cause or be able to show that action failed to be taken. He stated these are elected officials so there would need to be a significant reason and not just dissatisfaction of performance.

Assistant Mayor Splaine stated he is satisfied with the report as it addressed what he requested. He stated there are a number of dynamics playing out and this can be revisited as needed but feels it is wise to see what happens in the next 30 days and the upcoming election.

Councilor Shaheen stated that the memo clearly summarizes what can be done but wonders if there is a way to request the Commission have more transparency. City Attorney Sullivan stated we can always request, but the Police Commission is its own authority, although when the Council speaks, they usually do take notice.

Councilor Morgan stated that the committee wasn't clear on some of the recommendations and wonders if there is a conflict between the contract and the provisions of our ordinances and would there be a conflict if the Police Commission and Council were to review any steps taken so far and what the game plan is going forward.

City Attorney Sullivan stated there is no conflict and feels it is important for them to work together as there is a very wide discontent in the City so this is a good time to do it.

Mayor Lister stated that Police Commissioner Golumb has reached out to him to meet with the Council in the near future.

Councilor Dwyer stated that the Commission has been making budgetary decisions to spend money and assumes that this money has already been approved by the Council. City Manager Bohenko stated yes. Councilor Dwyer continued that the flaw is in our Charter that the Council has the power to remove a Commission but not to appoint a replacement, so that would leave a vacancy. Finally, she stated that in the spirit of transparency, she doesn't see anything that prevents a liaison being appointed to attend Commission meetings.

B. MAYOR LISTER

1. Appointments to be Considered:
 - Marie Kelleher to the Citywide Neighborhood Blue Ribbon Committee
 - Richard Shea reappointment as an Alternate to the Historic District Commission
 - Sylvia Olson to the Peirce Island Committee
 - William Townsend to the Peirce Island Committee

The aforementioned appointments were considered and will be voted at the August 3, 2015 City Council meeting.

2. Appointments to be Voted:
 - Vincent Lombardi to the Historic District Commission as a regular member
 - John Mayer to the Historic District Commission as an alternate member

Councilor Spear moved to approve the appointments of Vincent Lombardi as regular member to the Historic District Commission to June 1, 2018 and John Mayer as alternate to the Historic District Commission to June 1, 2016 (filling unexpired term of Vincent Lombardi). Seconded by Councilor Dwyer and voted.

C. COUNCILOR SHAHEEN

1. Update on Prescott Park Arts Festival

Councilor Shaheen gave a brief update of the Prescott Park Arts Festival working group which was formed in response to various issues and concerns raised by the neighborhood residents. She stated that a new operations manager has been appointed and has been responsive to issues very quickly. Some of the issues being addressed include: gate protocol for donation collections; stage relocation; changing the length of the "season"; addressing rain delays; Monday Movies ending when the school year begins; food safety; shortening intermissions, sound system issues including hiring an engineer, pointing the speakers in a different direction; parking and traffic mitigation; etc. She stated that there will be a sound test being conducted in the near future. She concluded stating that they are working towards a long-term agreement.

Mayor Lister stated he appreciates the input of Councilors Shaheen and Dwyer on the committee and stated they will also be meeting with the Fossey Group and Strawberry Banke.

Councilor Shaheen stated she want to ensure people that they are trying to solve a problem and not shut down the Arts Festival activities and asked that people not pit neighbors against neighbors.

Councilor Kennedy related an issue that had happened recently with a rain delay of a concert and it had been stopped around 8:30 and then restarted at 10:15. She stated she has

concerns with the safety of the people who were waiting and if there is any liability issue with that. She also would like to know if there are any ramifications of running past 11:00 p.m. She explained the history of the Arts Festival stating that it started out as weekend only and has grown considerably to the point where neighbors can't make plans to have people over to their own homes because of the noise and lack of parking.

Councilor Morgan asked who the city staff point of contact for the operations manager is. City Manager Bohenko stated that Dave Allen and the Health Inspector usually, but he can also call her anytime.

Councilor Kennedy asked that confidentiality be ensured for any neighbors who contact officials regarding this issue.

D. COUNCILOR LOWN

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the June 11, 2015 meeting

Councilor Lown moved to approve and accept the minutes of the June 11, 2015 Parking & Traffic Safety Committee meeting, seconded by Councilor Spear.

Councilor Lown stated that there was a vote to send to the Council the request to fund a study of 2-way traffic downtown for \$50,000 in an upcoming CIP.

Councilor Dwyer asked about the recent Water Country traffic issues on Route 1/Lafayette Road. Councilor Lown explained that there have been issues with people using Heritage Avenue to cut through to Banfield Road towards Ocean Road and there has been a request to direct the traffic to Pevery Hill Road to pick up the highway.

Councilor Morgan asked about crosswalk requests and the criteria for approving or disapproving. Councilor Lown explained that the PTS Committee deals with these requests all of the time and there are various circumstances and criteria that have to be met to install a crosswalk. He further explained that it is not illegal to cross at intersections without a crosswalk. He continued to explain why recent requests have been denied, including on Islington Street near White Heron Tea which will be reconsidered during the upcoming reconstruction. Another area that was not approved at this time was on Pleasant Street near Sanders Fish Market and they are also awaiting the redesign of that intersection.

Councilor Kennedy asked if there were going to be bump outs because they are not good for the boat trailers that utilize the area. Councilor Lown stated there will be no bump outs.

Motion passed on an 8-1 vote, Councilor Kennedy voted opposed.

E. COUNCILOR MORGAN & ASSISTANT MAYOR SPLAINE

1. Civility Resolution

Councilor Morgan moved to adopt the Civility Resolution, as presented below, seconded by Assistant Mayor Splaine.

"As members of the Portsmouth City Council, we agree that civility in our municipal government has been an important and core past tradition, and is a current and future expectation for each of us.

This principle should apply during the campaign which precedes our election, because relationships which are established during the campaign carry over into the operation of the government after the election. While serving in office, we realize that we should act in a manner which is respectful of other City Councilors, the staff, and the public in as much as possible.

We know that sometimes passion may prevail since indeed the process of governing often leads to disagreement, but we know that we must, individually and collectively, seek to reach the high standards of civility, integrity, and respect toward one another.

Civility includes respecting each other's right to speak his or her viewpoint, without undue interruption, so that the dialogue of ideas so vital to our democracy can be shared by our citizens and those in elected office.

Additionally, we should refrain from being intentionally insulting or attacking of one another during our service. Government works best when good people come together to solve problems in a cooperative, collaborative, and positive manner."

Councilor Morgan stated that she brought this forward to reaffirm a resolution adopted by the City Council in 2013 and feels it sets the right tone and sends the right message.

Assistant Mayor Splaine thanked Councilor Morgan for bringing this forward.

Councilor Spear stated his is against this motion because it may have unintended consequences. He stated he may pressure the Mayor to allow people to speak longer than they should and as Mayor he needs to be able to keep people on topic and the meeting moving forward. He stated that if it isn't broke, don't fix it.

Councilor Lown stated he is in favor of civility and respect but he has never seen any incivility in the 3 campaigns that he has run.

Councilor Thorsen agrees with Councilor Lown stating that everyone tries to be as civil as possible, but feels that sometimes there are pot shots. He stated it doesn't need to be written out and that this is a free speech issue.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Mayor Lister stated he appreciates the work that went into bringing this forward but he doesn't agree. He stated if you sit on the Council, disagreement is part of the process and you have to have a thick skin. He continued that he would like to have people speak to him

privately if they feel he was disrespectful as he would do. He concluded that candidates have to sign a pledge to be respectful during the campaign.

Assistant Mayor Splaine returned the gavel to Mayor Lister.

Motion passed on a 7-2 vote, Councilor Spear and Mayor Lister voted opposed.

F. COUNCILOR THORSEN

1. Memo to the City Council Re: Parking Programs

Councilor Thorsen reviewed his memorandum and addendum regarding his recommendations for parking programs. Some of the discussion points include fee structure changes; impact on residents; Neighborhood Parking; Workforce Parking, etc. He continued that he is also requesting action by the Parking and Traffic Safety Committee, Fee Study Committee and Citywide Neighborhood Committee as well as the City Council.

Councilor Dwyer stated there are a lot of small moving parts and it is a matter of keeping the whole picture in mind. She continued that 4 years ago there was a set of principals brought forward and would like to see what has been implemented from that report as a first step.

Councilor Spear asked about the report back that is due to come back regarding parking. City Manager Bohenko clarified that report is more about the operations of the Parking organization and not data. Councilor Spear recommended a future work session.

Councilor Lown stated that this memorandum is very thorough and agrees that the Parking and Traffic Safety Committee should be involved, but their feeling is that they should wait until the new parking garage is built as it will change the landscape of the whole area.

Councilor Morgan understands Councilor Lown's point but feels that we should not wait because it is only a portion of the issue and does not affect all neighborhoods.

Councilor Shaheen stated that time sensitive issues could be worked on by the Parking and Traffic Safety Committee and then work on other issues after the garage is built.

Discussion ensued with the consensus of the Council to have the Parking and Traffic Safety Committee review the memorandum and that a future joint work session be held.

2. Memo to the City Council Re: Electronic Communications

Councilor Thorsen reviewed his memorandum regarding Electronic Communications stating he recommends that the City Council discuss or hold a work session to discuss the impact of changing electronic communication technology and social media on city policy and City Council rules. Specifically, what types and manners of public meeting communication are allowed by state and city regulations, and what restrictions on City Councilors' communications might be appropriate. He gave various scenarios as outlined in the memorandum.

City Attorney Sullivan stated he agrees with this concern as State law is clear that the business of the public is supposed to be public so if too much is done electronically and is not in the public view, it could be in violation.

Discussion ensued with the consensus of the Council to have a report back from the City Attorney with a possible future work session to include the Legislative Delegation, City Council and City Boards and Commissions.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

XIII. ADJOURNMENT

Councilor Thorsen moved to adjourn at 10:20 p.m., seconded by Councilor Lown and voted unanimously.

Respectfully submitted:

A handwritten signature in black ink, appearing to read 'V. French', written in a cursive style.

Valerie A. French,
Deputy City Clerk