

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 19, 2015

PORTSMOUTH, NH
TIME: 6:30PM

At 6:30 p.m., an Anticipated "Non-Meeting" with Counsel was held regarding the City Manager's Evaluation in accordance with RSA 91-A:2, I (b).

I. CALL TO ORDER

At 7:17 p.m., Mayor Lister called the regular City Council meeting to order.

II. ROLL CALL

Present: Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen (Joined later in the meeting via conference call); Kennedy, Lown, Dwyer, Morgan, Spear and Thorsen

III. INVOCATION

Mayor Lister asked everyone to join in a moment of silent prayer in memory of former City Councilor John McMaster.

IV. PLEDGE OF ALLEGIANCE

City Attorney Sullivan led in the Pledge of Allegiance to the Flag.

PRESENTATION

1. Click N/ Fix Program

City Manager Bohenko said as part of responding to citizens concerns the Department of Public Works has implemented the Click N Fix program. He said this allows for interaction with the citizens and the follow-up of items.

Public Works Director Rice stated that this is an improved means of communication and provides for a report on issues. He reported this is an on-line link with their management system which creates a work order that provides a number with a date stamp for each request. He reviewed how to access the site and how the program would work and also discussed how this will assist in the measuring of services for the budget.

Councilor Dwyer said if people have an emergency they should call the Department of Public Works. Public Works Director Rice said that is correct. Councilor Dwyer asked how many layers are looking at the requests. Director Rice indicated the foreman would receive the initial request and he would be reviewing the requests on a weekly basis.

V. ACCEPTANCE OF MINUTES *(There are no minutes on for acceptance this evening)*

VI. PUBLIC COMMENT SESSION

John Golumb, Police Commissioner requested that there be no discussion or action taken on Chief Dubois' agreement and that the Police Commission will be meeting tomorrow on this matter.

Cathy Baker requested that the City Council vote for the Right-to-Know Ordinance presented under Councilor Morgan's name. She said that this is something that is necessary in the City.

Rick Horowitz spoke in favor of the Right-to-Know Ordinance being introduced by Councilor Morgan. He spoke to charging for information under the Right-to-Know law and that charging \$.50 per page for an item is too high.

Joe Plaia addressed the separation agreement for Chief Dubois. He said that the Attorney General's office should be asked if the Police Commission is a three member board or if it is permissible for the Mayor and City Manager to be sitting on the Commission.

Merle White said UBER continues to not comply with the regulations and a monster has been created by allowing UBER in the City.

Mark Brighton spoke to the investigation of Commissioner Cavanaugh and how it should not be taking place. He also addressed the separation agreement for Chief Dubois and his opposition.

Claire Kittredge spoke on transparency and financial disclosures in the City.

David Noard presented two whistles to the City representing the whistle blowers and that they should be placed on display in the City.

Ryan Hitchings spoke on Chief Dubois' separation agreement and the severance package provided to former Deputy Chief MacDonald. He also addressed the explorers program and issues he had involving Deputy Chief MacDonald.

Justin Nadeau recommended looking at the contract currently in place for Chief Dubois and whether there has been a breach of contract. He said instead of giving a severance look at whether there is a breach in the contract.

Diane Messier spoke on behalf of Jane Zill on the severance package proposed for Chief Dubois and her opposition. She said the Police Commission and residents need to speak in an honest and open exchange. She said we must trust the integrity of our officials.

Arthur Clough spoke on police cases and investigations. He addressed a former crime that had been committed and the impact it had on the person.

Duncan MacCallum spoke in favor of a Charter change to elect City Councilors by Wards and some Councilors being elected At-Large. He addressed the money being put into the downtown area and not to the outlining areas of the City.

Thomas Coakley said he agrees with some items presented by Joe Plaia and Justin Nadeau this evening. He said the police need to be held accountable to their jobs.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Mayor Lister moved to suspend the rules in order to take up Item XI. B.1. – Proposed Separation Agreement with Police Chief Stephen J. Dubois and the Portsmouth Police Commissioners. Seconded by Councilor Lown and voted.

XI. B.1. – Proposed Separation Agreement with Chief Stephen J. Dubois and the Portsmouth Police Commissioners

Mayor Lister moved to have no discussion any where on the agenda regarding the Police Chief's Separation Agreement. Seconded by Councilor Lown.

Mayor Lister said the Police Commission is meeting tomorrow and should act on this agreement.

Councilor Dwyer said the Police Commission has the authority and asked what is in front of the Police Commission currently.

City Attorney said the final action the Police Commission took is to withdraw and there is no action or item in front of the City Council currently and the Police Commission has no motion in front of them.

Assistant Mayor Splaine returned the gavel to Mayor Lister.

Assistant Mayor Splaine said we are in a terrible bind and does not want to see any action taken until after the Municipal Election. He said we have an obligation to solve this problem and wants to see it sooner than later. He addressed the information provided by the City Manager relative to the cost involved in the separation agreement.

Councilor Lown said there is a motion on the floor to not discuss this matter and yet some Councilors are.

Councilor Kennedy asked if we need a motion to have the Attorney General look at having the Mayor and City Manager sit with the Commission during meetings.

City Manager Bohenko said that was a directive of the City Council to sit at the table and only respond when asked a question and provide information. He would like the City Council to reaffirm the vote of the City Council to have him and Mayor Lister sit at the Police Commission meetings. He is a resource to the Police Commission or Chief.

On a unanimous roll call 8-0, voted to have no discussion any where on the agenda regarding the Police Chief's Separation Agreement. Councilor Shaheen was not present for this vote.

Councilor Kennedy moved that the City Manager and Mayor would no longer sit at the Police Commission table during meetings. Seconded by Assistant Mayor Splaine.

Discussion followed on this matter.

On a roll call vote 6-2, motion passed. Assistant Mayor Splaine, Councilors Kennedy, Lown, Morgan, Thorsen and Mayor Lister voted in favor. Councilors Dwyer and Spear voted opposed. Councilor Shaheen was not present for this vote.

VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Police Department Grants & Donation
- Acceptance of Grant from the US Department of Justice for new and replacement bullet proof vests - \$10,360.71
 - Acceptance of Grant from the US Department of Justice for New Hampshire Internet Crimes Against Children Task Force - \$256,152.00
 - Acceptance of Donation from Ms. Dorothy Steere-Doyle for Portsmouth Police Explorer Cadets - \$20.00

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

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

(There are no items under this section of the agenda this evening)

IX. CONSENT AGENDA

- A. Request for Approval of Pole License Agreement #63-0598 to license 3 replacement poles on Jewell Court and 2 poles on the private access road behind Hannaford Supermarket and the adjacent strip mall at 800 Islington Street ***(Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes)***
- B. Letter from Nicole McShane, Big Brothers Big Sister of New Hampshire, requesting permission to hold the Annual Stiletto Sprint on Saturday, June 18, 2016 (rain date Sunday, June 19, 2016) ***(Anticipated action – move to refer to the City Manager with power)***

- C. Request for License from Patricia Lonergan, owners of Inside Out for property located at 46 Market Street for a projecting sign on a new bracket (Not on Agenda) ***(Anticipated action – move to accept the recommendation of the Planning Director with aforementioned stipulations and approve the request of Patricia Lonergan, owners, of Inside Out for a projecting sign at property located at 46 Market Street and, further, authorize the City Manager to execute License Agreements for this request)***

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

X. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from John R. Chagnon, Ambit Engineering, Inc., requesting a License for property located at 319 Vaughan Street

Councilor Kennedy moved to refer to the City Manager for report back. Seconded by Councilor Dwyer and voted.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

(There are no items under this section of the agenda this evening)

Informational Items

- City Manager announced that the City Assessor and DRA will be providing a Presentation regarding the Revaluation on October 26, 2015 at 6:30 p.m.

Councilor Shaheen joined in via conference call.

- Report Back Re: UBER Enforcement

City Manager Bohenko said he would like to have the City Attorney and Police Department meet on how to enforce this ordinance.

City Attorney Sullivan said he has heard no more regarding the Attorney from Manchester wanting to bring suit against the City on behalf of UBER. He reported on the ordinance being in place and outlined the regulations and where we currently stand with UBER. He stated that UBER could apply at any time for a placard to operate as a Transportation Service Provider in the City.

Assistant Mayor Splaine announced that the Transportation Service Commission will be meeting on Wednesday at 9:00 a.m. to further discuss the UBER situation.

Councilor Morgan asked if we have received applications from other ride share companies to operate in the City. City Attorney Sullivan said no we have not.

B. MAYOR LISTER

2. Appointments to be Considered:
 - Appointment of Anne Poubeau to the Portsmouth Housing Endowment Fund Advisory Board
 - Appointment of Hannah K. Dahlgren to the Citizen Advisory Committee

The City Council considered the appointments listed which will be voted on at the November 16, 2015 City Council meeting.

3. Appointments to be Voted:
 - Appointment of Jonathan Sandberg to the Citizens Advisory Committee of the CDBG Program
 - Appointment of Lawrence J. Lariviere to the Sustainable Practices Committee

Councilor Spear moved to appoint Jonathan Sandberg to the Citizen Advisory Committee and Lawrence Lariviere to the Sustainable Practices Committee. Seconded by Councilor Kennedy and voted.

4. Establish Work Session for November 23, 2015 Re: Topics
 - Update on Solid Waste & Recycling Program
 - Proposed LED Lighting for City Street Lights
 - Discussion Re: Naming Lafayette Park in honor of Dr. Paul Harvey in Accordance with Rule 44 (Proposed by Assistant Mayor James Splaine)

The City Council will be meeting in a Work Session on Monday, November 23, 2015 at 6:30 p.m. regarding Update on Solid Waste & Recycling Program, Short Term Vacation Rentals and the Naming of Lafayette Playground in honor of Dr. Paul Harvey in Accordance with Rule 44.

Councilor Kennedy requested inviting our Legislative Delegation and Representation to be part of the discussion.

D. COUNCILOR KENNEDY

1. Charter Committee Update

Councilor Kennedy said she has been talking with City Attorney Sullivan on looking at a Committee for Charter updates.

City Attorney Sullivan said a number of detailed discussions have taken place on a Charter Committee. He reviewed the process to be followed with a Charter Committee versus a Charter Commission.

E. COUNCILOR SHAHEEN

1. Heroin Epidemic

Councilor Shaheen requested to postpone this item until the November 16, 2015 City Council meeting.

F. COUNCILOR LOWN

1. Parking & Traffic Safety Committee Action Sheet and Minutes on October 1, 2015

Councilor Lown moved to approve and accept the Parking & Traffic Safety Committee Action Sheet and Minutes of the October 1, 2015 meeting. Seconded by Assistant Mayor Splaine.

On a roll call vote 8-1, motion passed. Councilor Kennedy voted opposed.

G. COUNCILOR MORGAN

1. Right-to-Know Requests

Councilor Morgan said she will bring this matter forward at the November 16, 2015 City Council meeting.

H. COUNCILOR SPEAR

1. City Manager's Evaluation

Councilor Spear moved to accept the results of City Manager's Evaluation Committee. Seconded by Assistant Mayor Splaine.

Councilor Spear said because of the City Manager and the Economic Development Commission we are making the downtown parking garage a reality. This is just one of the many things that John Bohenko has done for the City of Portsmouth.

Councilor Lown said he was at a PDA meeting this week when an issue came forward on the GASB procedures and City Manager Bohenko took charge of the issue and suggested how to handle it and everyone in the room was impressed by his leadership ability. He said this is just one story of many he could tell.

Assistant Mayor Splaine said he served with 7 City Managers and a temporary City Manager and John is among the best.

Councilor Dwyer complimented City Manager Bohenko and his operation.

Councilor Thorsen said of all the managers he has worked with John Bohenko is one of the best. He thanked John for being responsive to him as a City Councilor, and it has been most pleasurable to work with him.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Mayor Lister echoed the comments made. He said he worked with him as a department head, City Councilor and Mayor and he recognized his leadership skills and congratulated him on a continued job well done.

Mayor Lister returned the gavel to Assistant Mayor Splaine.

On a unanimous roll call vote 9-0, motion passed.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Kennedy requested a report back on Peverly Hill Road at the next City Council meeting.

XIII. ADJOURNMENT

At 9:40 p.m., Councilor Spear moved to adjourn. Seconded by Councilor Lown and voted.



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