

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, MARCH 21, 2016

PORTSMOUTH, NH  
TIME: 6:15PM [or thereafter]

An Anticipated “Non-Meeting” with Counsel was held regarding Negotiations – RSA 91-A:2, I (b).

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

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

### **II. ROLL CALL**

Present: Mayor Blalock, Assistant Mayor Splaine, Councilors Perkins, Dwyer (joined via conference call at 8:20 p.m. until adjournment), Lown, Pearson, Spear, Cyr and Denton

### **III. INVOCATION**

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

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

Councilor Perkins led in the Pledge of Allegiance to the Flag.

### **PRESENTATIONS**

1. Recognition of Portsmouth High School Boys 2016 New Hampshire Division 2 Winter Track State Champions

Mayor Blalock presented plaques in recognition of the players and coach of the Portsmouth High School Boys 2016 NH Division 2 Winter Track State Champions.

2. Music Hall Re: Chestnut Street Streetscape Improvements

Patricia Lynch and Ben Auger provided a presentation of the proposed Chestnut Street Streetscape Improvements and a 50/50 partnership with the City for the streetscape. Ms. Lynch stated that \$400,000.00 will be funded by The Music Hall with \$400,000.00 from the City’s Capital Improvement Plan & UDAG funds.

**Assistant Mayor Splaine moved to refer this matter to Art-Speak per City Council policy to authorize The Music Hall to proceed with a project review by the Historic District Commission; Parking and Traffic Safety Committee; and Trees and Greenery Committee. Further, move to request the City Manager prepare a report back following these reviews (and Art-Speak referral) to the City Council prior to final project approvals by the City Council. Seconded by Councilor Lown and voted.**

**V. ACCEPTANCE OF MINUTES – FEBRAURY 1, 2016, FEBRUARY 16, 2016 AND MARCH 7, 2016**

**Councilor Lown moved to approve and accept the minutes of the February 1, 2016; February 16, 2016 and March 7, 2016 City Council meetings. Seconded by Councilor Pearson and voted.**

**VI. PUBLIC COMMENT SESSION**

Tom Hersey requested that the City Council consider the project with a Project Labor Agreement (PLA) for the Wastewater Treatment Facility. He said you would have workers that have a connection with the seacoast. He said the rate of wages would be through David Baker Wages which would make sure people are paid accordingly. He announced that the Memorial Bridge and the Portsmouth Middle School had workers from a Project Labor Agreement. He said the use of a PLA would ensure that it is a successful project for the City.

Steven Burk said the Wastewater Treatment Facility is a large project and having skilled trained workers with a PLA would be a benefit to the City. He said skilled workers could handle all aspects of the project.

David LaFevers said many people live downtown and have to use the parking meter and run down to pay the meters. He said it would be better if people that visit should use the parking garage. He said he would like to see parking permits for people living on Congress Street.

Esther Kennedy said that people really want the City to look into using barges for the Peirce Island Wastewater Treatment Facility project. She stated she would like to make a Right-to-Know request which she handed to City Clerk Barnaby regarding Pease Development Authority and Pease wastewater treatment plant.

Mark Brighton said he finds behavior in the City Council to be insulting.

Nancy Brown said she is concerned that people from Portsmouth Listens on the West End Zoning are not present this evening to speak on the ordinance. Mayor Blalock announced that the public hearing will be recessed until May 2, 2016. She said she does not want to see the West End to be an extension of the downtown area. Ms. Brown said the quality of life and character of the West End needs to remain.

Assistant Mayor Splaine said he would like the PLA to be placed under his name for the next City Council meeting. Deputy City Manager Allen said the project bid will close at the end of May. Councilor Spear said we have only heard one side of the matter and would like to see staff come back at the next meeting with information outlining the issues.

## VII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE DELETE THE EXISTING ARTICLE 5A – CHARACTER DISTRICTS IN ITS ENTIRETY AND INSERT IN ITS PLACE THE NEW ARTICLE 5A – CHARACTER DISTRICTS DATED JANUARY 11, 2016

AMEND ARTICLES 4, 5, 11, 12 & 15 OF THE ZONING ORDINANCE AS SET FORTH IN THE DOCUMENT TITLED “CONFORMING AMENDMENTS TO ZONING ORDINANCE” JANUARY 11, 2016

AMEND THE ZONING MAP AS SET FORTH IN THE FOLLOWING MAPS DATED JANUARY 11, 2016;

- (a) MAP 10.5A21A – CHARACTER DISTRICTS AND CIVIC DISTRICTS
- (b) MAP 10.5A21B – BUILDING HEIGHT STANDARDS;
- (c) MAP 10.5A21C – SPECIAL REQUIREMENTS FOR FAÇADE TYPES, FRONT LOT LINE BUILDOUT & USES

AMEND THE ZONING MAP BY CHANGING THE ZONING DESIGNATION OF 52 PARCELS AS SET FORTH IN THE DOCUMENT TITLED “PROPOSED ADDITIONAL WEST END ZONING CHANGES” DATED JANUARY 11, 2016 AND AS SHOWN ON THE MAP TITLED “ADDITIONAL WEST END ZONING CHANGES – FIRST READING – JANUARY 11, 2016  
(Request to Recess Public Hearing until May 2<sup>nd</sup> City Council meeting)

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

Larry Lariviere said the gateway district is something that will happen at some point in time and it would be wise of the Planning Department to consider the gateway district into DD4W and plan now because it will happen.

Jerry Zelin said the City Council has in front of them the January version of the ordinance but the Planning Board has a version dated in March and asked why that is not before the Council. He said Portsmouth Listens commented on the first draft and Planning Board voted to continue their public hearing until April. He said you should not hold a public hearing on the January draft when the March draft is out there. He urged the City Council and Planning Board to unbundle the amendments. Mr. Zelin said the North End and West End are two different conversations and should not be on the same table.

City Attorney said there are two things in play. He said a public hearing has been noticed for a particular night and people should be entitled to speak. He said rather too many public hearings than too few.

Councilor Perkins said the Planning Board held a public hearing and voted to hold the public hearing open until April. She said they heard from 8 Portsmouth Listens groups who provided details. She said everyone will be able to comment on the new draft at the next public hearing and that this is a good public project.

Esther Kennedy said Portsmouth Listens worked hard and came from all aspects of the City. At 4:15 p.m. today there was an email on this public hearing this evening which really confused people. She said the Council needs to have Portsmouth Listens send another email out on when the next public hearing will be held. She said she feels a work session should be held on these matters.

Susan Denenberg said many people did not come out this evening because they did not know if there would be a public hearing on the ordinance. She said she opposes bigger buildings and people do not want a bigger Portsmouth.

Harold Whitehouse explained concerns with losing another part of the City and its history. He said the Council needs to give this great thought not to change the area too much. He spoke opposed to wide sidewalks and to leave the area natural.

Mike Tiel, Portsmouth business owner, said the process is very convoluted with much time and effort was spent by Portsmouth Listens. It feels like the process is going backwards. He said the foot print is of great concern and does not want to see it in the West End.

Mayor Blalock said the public hearing is being recessed until May 2, 2016.

Deputy City Manager Allen said Planning Director Taintor is here this evening to answer any questions. He said that the Planning Board is currently trying to incorporate some information received from Portsmouth Listens to develop it in a complex ordinance and they will continue to work on this matter. He said the City Council and Planning Board would like to have a work session on the ordinance.

Councilor Denton said a lot of effort went into this and asked how difficult would it be to break up the ordinance by districts or ends of the downtown. Planning Director Taintor said they're working to do that now and it is difficult to extract some things. He said there are currently 4 sections of the ordinance but there will be a 5<sup>th</sup> item coming forward.

## **IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

- A. Second reading Ordinance amending Chapter 10 – Zoning Ordinance Delete the existing Article 5A – Character Districts in its entirety and insert in its place the new Article 5A – Character Districts dated January 11, 2016

Amend Articles 4, 5, 11, 12 & 15 of the Zoning Ordinance as set forth in the document titled “Conforming Amendments to Zoning Ordinance” January 11, 2016

Amend the Zoning Map as set forth in the following maps dated January 11, 2016;

- (a) Map 10.5A21A – Character Districts and Civic Districts;
- (b) Map 10.5A21B – Building Height Standards;
- (c) Map 10.5A21C – Special Requirements for Façade Types, Front Lot Line Buildout & Uses

**Councilor Spear moved to postpone second reading to the May 2, 2016 City Council meeting, as presented. Seconded by Councilor Perkins and voted.**

## **X. CONSENT AGENDA**

- A. Letter from Jess Dorr, Seacoast Outright requesting permission to hold the Portsmouth Pride community event on Saturday, June 25, 2016 in Market Square

**Councilor Spear moved to adopt the Consent Agenda. Seconded by Councilor Lown and voted.**

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

- A. Letter from Lilia Potter-Schwartz requesting to hold a Triathlon on Sunday, May 22<sup>nd</sup> or Sunday, May 29<sup>th</sup> beginning at Portsmouth High School

**Councilor Lown moved to refer to the City Manager with power. Seconded by Councilor Spear and voted.**

*At 8:20 p.m., Councilor Dwyer called into the meeting to participate via conference call.*

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

### **A. CITY MANAGER**

- 1. Proposed Ordinance Re: Irrigation Capacity Surcharge

Deputy City Manager Allen said through research with our Water/Sewer rate consultant, we have determined that the current practice in New England and throughout the rest of the country is to allow for irrigation meters for all customers. The ordinance before you will expand the allowance of irrigation meters to all customer classes. He requested to bring first reading of the ordinance forward at the April 4, 2016 City Council meeting.

Councilor Lown said he would like to have a presentation on this matter at the April 4, 2016 City Council meeting. He also asked if the increase use of meters will cause an increase in non meter users. Deputy Public Works Director Goetz said he would have to ask our consultant Mr. Hyder but the rates would be higher for sewer users. He said this would be phased in over time.

Councilor Denton said this is to allow meters for everyone and last time this was before the Sustainable Practices Committee it was indicated it creates more water usage. He said he would like to bring the old ordinance back with the new ordinance next to it to review changes.

**Councilor Spear moved to authorize the City Manager to bring back for first reading the proposed ordinance, as presented, along with the previous ordinance at the April 4, 2016 City Council meeting. Seconded by Councilor Lown.**

Councilor Perkins said she would like to understand the origin of the request and the history. Deputy City Manager Allen said the original ordinance was brought forward in 1997 for only single resident users.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said if you have the meters you would need to offer them to everyone.

Assistant Mayor Blalock returned the gavel to Mayor Blalock.

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

2. Second License Request from Green & Co. Real Estate for 275 Islington Street Project

Deputy City Manager said the applicant requests a new license for phased completion of individual dwelling units, including a license to encumber 2 parking spaces on Rockingham Street until July 30, 2016, 2 parking spaces on Cornwall Street until July 30, 2016, 2 parking spaces on Islington Street until April 30, 2016 and 2 parking spaces on Islington Street until May 30, 2016. He said the reason for the parking spaces is to accommodate subcontractors who require a mobile shop and to give homeowners access to their condominiums. He said the City will charge meter bag daily fees for the encumbered parking spaces.

**Councilor Spear moved to negotiate and enter into a second license with Green & Co. Real Estate for facilitate phased completion of individual dwelling units at 275 Islington Street. Seconded by Councilor Perkins.**

Councilor Spear asked if these requests go through the Parking Traffic & Safety Committee or the Technical Advisory Committee. Deputy City Manager Allen said these requests are handled administratively.

Councilor Pearson asked if these are 24 hours or through the work hours. Deputy City Manager Allen said during working hours. Mr. Green responded the hours of work are from 7:00 a.m. to 6:00 p.m.

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

3. License Request for Conduit for 39 Dearborn Lane from owner Michael Brandsel Street

Deputy City Manager Allen reported that this request is to install underground conduit from the pole located on Dearborn Street under the City sidewalk along Dearborn Lane to the owner's home.

**Councilor Lown moved to authorize the City Manager to negotiate and enter into a Petition and License for new electrical conduit with the Owner. Seconded by Councilor Spear.**

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

4. Establish a Joint Work Session Re: Peirce Island Wastewater Treatment Facility Expansion Construction Impact Mitigation

Deputy City Manager Allen said this would be a Joint Work Session with the City Council, Parking and Traffic Safety Committee, Recreation Board, Peirce Island Committee, and the Trustees of the Trust Fund to discuss the Peirce Island Wastewater Treatment Facility expansion construction impact mitigation.

**Councilor Spear moved to establish a Joint Work Session with the Parking and Traffic Safety Committee, Recreation Board, Peirce Island Committee, and the Trustees of Trust Funds on Monday, April 11, 2016 at 6:30 p.m. in the Eileen Dondero Foley Council Chambers regarding the Wastewater Treatment Facility expansion construction impact mitigation. Seconded by Councilor Spear.**

Councilor Dwyer questioned whether this work session is premature at this time where we need to get pricing from bidders on the use of barges. Deputy City Manager Allen said the purpose is to find out all uses associated with this and make sure we flush out all issues.

Councilor Lown said he feels it is premature as well and does not feel we would have the information necessary by April 11<sup>th</sup>.

Councilor Perkins said she would like to see cost aspects for the April 11<sup>th</sup> work session.

Councilor Spear said the benefit to the work session he agrees is to ask the boards to report back with City staff to use the information in the bidding process.

Assistant Mayor Splaine said the work session is a good idea and we need to ensure transparency with the mitigation on this project. He said we could gather concerns at the work session and learn about the impact to the downtown.

Councilor Lown said it is not time well spent and we have heard people do not want trucks in the neighborhoods.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he feels we need to have a work session with the board chairs around the table with the City Council. He said we may not know at the time of the work session the items to mitigate traffic.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Dwyer said she is not sure we're in a position to give preferences at this point; there may be preferred barges that are not realistic with the bid. She said some things might not be possible and we do not have enough information.

Deputy City Manager Allen said the Public Works Department gave a thorough presentation to the Parking Traffic & Safety Committee and the intent is to bring out some of the information to the collective group.

Assistant Mayor Splaine said we need to get as much information out now to the public and keep the process transparent.

Councilor Pearson said she echoes Assistant Mayor Splaine's comments that this is to explain the City narrative. She said it would bring points out and that is what is needed.

Councilor Cyr said he is in favor of the work session.

Councilor Lown said he would vote in favor of the work session if we hear from Geno Marconi on the barges. Deputy City Manager Allen said he would offer Geno the invitation to attend. Councilor Pearson said Charles Lassen could offer information that Geno would as well.

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

**B. MAYOR BLALOCK**

1. Appointments to be Voted:
  - Richard Winstanley reappointment to the Cable Television & Communications Commission
  - Colby Gamester reappointment to the Planning Board
  - Todd Henley reappointment to the Recreation Board

**Councilor Spear moved to reappoint Richard Winstanley to the Cable Television & Communications Commission until April 1, 2019, reappoint Colby Gamester to the Planning Board until December 31, 2018 and reappoint Todd Henley to the Recreation Board until April 1, 2019. Seconded by Assistant Mayor Splaine.**

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



2. Housing Working Group
  - Councilor Perkins, Chair
  - Councilor Dwyer
  - Councilor Spear
  - John Ricci, Planning Board Chair
  - David Witham, Zoning Board of Adjustment Chair
  - Mike Kennedy, Portsmouth Housing Authority
  - 3 Staff members to be appointed by City Manager Bohenko

Mayor Blalock announced the appointment of a Housing Working Group with Councilor Perkins, Chair; Councilor Dwyer, Councilor Spear as members and John Ricci, Planning Board Chair; David Witham, Zoning Board of Adjustment Chair; Mike Kennedy, Portsmouth Housing Authority representative as participants of the group and 3 staff members to be appointed by City Manager Bohenko.

### **C. COUNCILOR LOWN**

1. Parking & Traffic Safety Committee Action Sheet and Minutes of March 3, 2016

**Councilor Pearson moved to approve and accept the minutes if the March 3, 2016 Parking & Traffic Safety Committee meeting. Seconded by Councilor Perkins.**

Assistant Mayor Splaine said he would vote against the motion because he does not support the Borthwick Forest Subdivision Roadway approval.

Councilor Pearson asked if there is a timeline on the traffic study to analyze alternative exit routes for Water Country. Councilor Lown said no but it would all happen in the near future.

**On a roll call vote 8-1, motion passed. Councilor Perkins, Dwyer, Lown, Pearson, Spear, Cyr, Denton and Mayor Blalock voted in favor. Assistant Mayor Splaine voted opposed.**

### **D. COUNCILOR SPEAR**

1. Communication Plan for Peirce Island Wastewater Treatment Facility Construction

Councilor Spear said the Council talked about improved communication for the Peirce Island Wastewater Treatment Facility construction project. He said the project is so big it deserves its own communication person. He said he would like to see a more robust communication strategy for the next 4 years.

Deputy City Manager Allen said that this is important to City Manager Bohenko and staff. He said we have begun an outline on communication and we would have something for the next meeting on this matter.

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

**XIV. ADJOURNMENT**

**At 9:10 p.m., Councilor Lown moved to adjourn. Seconded by Councilor Spear and voted.**

A handwritten signature in black ink that reads "Kelli L. Barnaby". The signature is written in a cursive, flowing style.

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