

**CITY COUNCIL NON-PUBLIC SESSION RSA 91-A:3, II (a) REGARDING PERSONNEL
MATTER & “NON-MEETING” WITH COUNSEL RE: LITIGATION IN ACCORDANCE WITH
RSA 91-A:2,I (b)**

PORTSMOUTH MUNICIPAL COMPLEX
CONFERENCE ROOM A

MONDAY, AUGUST 1, 2016
TIME: 6:00 PM

A roll call for attendance of City Council members present for the meeting was taken.

PRESENT: Mayor Blalock, Assistant Mayor Splaine, Councilors Perkins, Lown, Pearson, Cyr and Denton

ABSENT: Councilors Dwyer and Spear

STAFF PRESENT: John P Bohenko, City Manager; Robert Sullivan, City Attorney; and Kelli L. Barnaby, City Clerk

The following motions were taken in public session in the Eileen Dondero Foley Council Chambers. Councilor Spear arrived to meeting.

On a roll call 8-0 voted to enter into a Non-Public Session regarding Personnel Matters in accordance with RSA 91-A:3, II (a) to discuss the City Manager’s Evaluation.

Discussion followed regarding the City Manager’s Contract Extension.

On a roll call 8-0, voted to enter into a “Non-Meeting” with Counsel regarding Litigation in accordance with RSA 91-A:2,I (b).

Discussion followed regarding Litigation relative to sewer line located on Greenleaf Avenue.

At 6:55 p.m., Mayor Blalock adjourned the meeting.

Respectfully submitted by:

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

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, AUGUST 1, 2016

PORTSMOUTH, NH
TIME: 7:00PM

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, 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 Denton led in the Pledge of Allegiance to the Flag.

V. ACCEPTANCE OF MINUTES – JULY 11, 2016

Assistant Mayor Splaine moved to request that the top of the minutes reflect the Non-Public Session minutes when they are held. Seconded by Councilor Dwyer and voted.

Councilor Perkins moved to accept and approve the minutes of the July 11, 2016 City Council meeting with an amendment to page 3 comments made by Arthur Clough at the Public Comment Session. Seconded by Councilor Dwyer and voted as amended.

VI. PUBLIC COMMENT SESSION

Rick Horowitz spoke regarding the Right-to-Know law and the copying of items. He said we need to keep government transparent and open.

Detective Timothy Cashman & Cliff Lazenby – spoke regarding National Night Out and the various activities that will be held tomorrow evening.

Merle White spoke against the Transportation Services Ordinance and the need to return to the previous Taxi Ordinance.

Valerie Rochon, Chamber of Commerce, thanked the City Council and staff for their thoughtful consideration on the Peirce Island Wastewater Treatment Facility. She spoke concerning the truck traffic during the construction process.

Arthur Clough spoke regarding individuals bringing alcohol into Prescott Park events and how that is prohibited and needs to be enforced.

VII. PUBLIC HEARINGS

- A. RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF THE CITY UNDER THE MUNICIPAL FINANCE ACT AND/OR PARTICIPATION IN THE STATE REVOLVING FUND (SRF) LOAN OF UP TO SEVEN MILLION DOLLARS (\$7,000,000.00) FOR COSTS RELATED FOR THE CONSTRUCTION OF THE PEIRCE ISLAND WASTEWATER TREATMENT FACILITY

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

Lee Roberts spoke regarding the public hearing held to discuss Pease versus Peirce Island for the location of the Wastewater Facility. She expressed her opposition to the Peirce Island location and the truck traffic that will occur during the construction phase.

John Pearson, AECOM spoke regarding barging and the costs involved. He said there are two areas at Peirce Island for barging to take place and addressed the types of barging that could be used. He also spoke to other locations in New England that have used barging for the construction of a Wastewater Treatment Facility.

Peter Rice, Public Works Director, said the additional costs for barging will be \$7,000,000.00 and the estimated impact to the average residential customer for the Wastewater Treatment Facility is \$340.00 per year with the barging it would be an 8.5% increase.

Rick Horowitz spoke in favor of barging and said what has not been done is an exploration of what it would mean to not barge. He addressed the impact of truck travel through the neighborhoods.

Bob Shouse spoke against the barging option and said the added cost for barging should direct the City Council direction on this vote. He also indicated that the truck traffic will not destroy streets in the area of the project.

Ralph DiBernardo spoke opposed to barging and said spending millions on barging to reduce traffic in the south end is unwise.

Linda Marconi spoke regarding the effects barging could have on the lobster industry for her family and other local lobstermen. She addressed the tides and the current of the river and how that would have a serious impact on when barging could take place.

Lawrence Cataldo urged the City to use barging. He said many oppose the Wastewater Treatment Facility at Peirce Island. He spoke to the impact of trucks the construction would have on the neighborhoods and tourists visiting the City.

Beth Margeson spoke in support of barging. She said HarborCorp and Deer Street will be built at the same time as the construction of the Wastewater Treatment Facility and said that these projects will have a serious impact on the City, neighborhoods and downtown.

Paul Mannle said there is no need to pass on the expenses for barging to the ratepayers. He said you could use some of the funds from the bond premium to cover the costs.

Patrick Ellis spoke to the Methuen Construction firm and their work. He said we need to move forward with the Wastewater Treatment Facility construction project.

Ed Burke said you need to build a roadway to access the barge. He said the streets going into Peirce Island will never handle the large trucks.

Rick Becksted said that the City Council convinced themselves that Peirce Island was a good idea by using barging. He addressed the other projects that will be taking place during the construction and the impact they would have on the City.

Paige Trace read a letter from Jane Zill on the Wastewater Treatment Facility. The letter indicated the need for barging to mitigate safety risks.

Esther Kennedy spoke regarding the need for barging and that barging should be done at the front of the island. She said Methuen Construction firm has worked in other communities that were not happy with their work product.

With no further speakers, Mayor Blalock declared the public hearing closed.

At 9:05 p.m., Mayor Blalock called for a brief recess. At 9:15 p.m., Mayor Blalock called the meeting back to order.

B. ORDINANCE AMENDING CHAPTER 7, VEHICLES, TRAFFIC AND PARKING – ANNUAL OMNIBUS

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

VIII. APPROVAL OF GRANTS/DONATIONS

(There are no items under this section of the Agenda)

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

A. Second reading of Annual Omnibus Ordinance Change, Parking and Traffic

Councilor Spear moved to pass second reading and schedule third and final reading on the proposed Ordinance at the August 15, 2016 City Council meeting, as presented. Seconded by Councilor Perkins and voted.

B. Adoption of Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Seven Million Dollars (\$7,000,000.00) for Costs related for the Construction of the Peirce Island Wastewater Treatment Facility

Councilor Lown moved to authorize the City Manager to proceed with the bid award to Methuen Construction for the Wastewater Treatment Facility upgrade on Peirce Island without any barging alternative; and further move to deny the Bond Resolution, as presented. Seconded by Councilor Perkins.

Assistant Mayor Splaine asked City Attorney Sullivan how many votes were needed for this vote. City Attorney Sullivan said a simple majority for the Methuen Construction and 6 for passage of the Resolution.

Assistant Mayor Splaine spoke in support of barging and said that Peirce Island should be total recreation. He said we need to start regional planning and need to find an alternative.

Councilor Dwyer said she will not give up as easily as Assistant Mayor Splaine. She said some of this is about traffic mitigation and we need to think about what the neighborhoods are asking for and invest in our neighborhoods.

Councilor Lown said it is not worth while to speak about mistakes of the past. He said the plant will be located at Peirce Island. He said the City Council listens to the public but the City Council went by the number of people that expressed their opinions.

Councilor Perkins spoke in support of the motion. She said we are all in this together and it is a facility for the entire City.

Councilor Denton said the best option in front of us is not to barge and that is the position he will take this evening.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said the Council does listen and reads the e-mails being received. He said he had no idea how expensive the barging would cost. He said when the first treatment plant was built the houses were there and the houses will survive. He spoke against spending \$7,000,000.00 for barging.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Pearson said we do not know about the Port but we know things will need to be staged over a period of time. She said we have a strict deadline and waiting could affect that deadline. She stated she does not feel comfortable or confident with all the issues surrounding barging.

On a roll call 6-3, voted to authorize the City Manager to proceed with the bid award to Methuen Construction for the Wastewater Treatment Facility upgrade on Peirce Island without any barging alternative; and further move to deny the Bond Resolution, as presented.

City Manager Bohenko said the next step is to award the bid to Methuen Construction. Public Works Director Rice explained the process that would follow.

Assistant Mayor Splaine asked if there is any more funding required. City Manager Bohenko said unless we run into a problem there would not be any more funding requests. Assistant Mayor Splaine said he would like for the first meeting in September to take the right approach and discuss with other cities and towns for a regional facility in 30-40 years.

Councilor Dwyer said some state legislation would help that in the long run and there is proposed legislation for water shedding. City Manager Bohenko said we need to discuss this in the Legislative Subcommittee.

Councilor Lown said we have already done this, we approached other towns for the plant at Pease and no one was interest.

X. CONSENT AGENDA

- A. Letter from Kenneth LaValley, American Foundation for Suicide Prevention, requesting an alternative venue and plan to use the Little Harbour School for the fundraising Walk on Saturday, September 17, 2016 (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Thomas D’Arcy, Danielle’s Dash requesting permission to hold the Road Race on Sunday, August 28, 2016 rather than the previously approved date of April 30, 2016 (***Anticipated action – move to refer to the City Manager with power***)
- C. Request for License to install Projecting Sign:

- Christer Ericsson owner of Greenman Pedesen, Inc., for property located at 21 Daniel Street (***Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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 to install Projecting Sign:

- Niranjan Pandey owner of Durbar Square Restaurant for property located at 10 Market Street (***Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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***

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

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Zachary Taylor, Riverside&Pickering Marine Contractors, request by Stephen and Karin Barndollar for the construction of a tidal docking structure within the Ridges Court Right of Way and Right of Way setback (***Sample motion – moved to refer to the Conservation Commission for report back***)

Mayor Blalock stated he would not vote on this matter when it comes back because he is an abutter.

Councilor Lown moved to refer to the Conservation Commission for report back. Seconded by Councilor Perkins and voted. Mayor Blalock abstained from voting on this matter.

Councilor Lown moved to suspend the rules in order to take up Item XII. A. 4. Seconded by Councilor Perkins and voted.

XII. A.4. – Proposed Acquisition of Land Re: Foundation for Seacoast Health

Assistant City Manager Moore said that acquiring this land would allow us to expand the recycling center, add recreation fields and achieve open space. He outlined the parcel with use of a Powerpoint Presentation and stated that this would equal 50 acres of land for the City.

City Manager Bohenko said we will save substantial amounts of money on the transporting of our recyclables by expanding our center with the purchase of this land.

Councilor Lown moved to authorize the City Manager to negotiate a Purchase & Sale Agreement for the four sites described above and take any and all action necessary to execute this Agreement; move to establish a public hearing for August 15, 2016 to utilize \$1,850,000.00 from bond premium; and, move to refer this matter to the Planning Board. Seconded by Councilor Perkins.

Councilor Denton said he would like a swap shop established at the recycling center.

Councilor Dwyer said she would like a dog area created on this land, which is much needed.

Councilor Lown said that this is good fiscal management being paid by our bond premium.

Motion passed.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Request for Approval of a Proposed Two-Year Agreement between the City of Portsmouth and the Professional Management Association

Councilor Spear moved to accept the proposed contract with the Professional Management Association to expire on June 30, 2018. Seconded by Councilor Lown.

Councilor Dwyer left the Council Chambers during the motion for this matter.

Motion passed and Councilor Dwyer abstained from voting on this matter.

2. Request for Approval of a Proposed Two-Year Agreement for the Supervisory Management Association

Councilor Spear moved to accept the proposed contract with the Supervisory Management Association to expire on June 30, 2018. Seconded by Councilor Lown and voted. Councilor Dwyer left the Council Chambers and was not present for this vote.

3. Polling Hours for September 13, 2016 State Primary Election

Councilor Lown moved to set the polling hours from 8:00 a.m. to 7:00 p.m. for the State Primary Election on September 13, 2016. Seconded by Councilor Perkins and voted.

5. Four Party Waterline Extension Agreement

City Attorney Sullivan outlined the issues surrounding this matter. He said there is no contamination on the land and the City announced that the land could be developed. He said this would resolve any claims that could come to us and recommended approval.

Councilor Spear moved to approve the Four Party Waterline Extension Agreement, as presented, and further, authorize the City Manager to execute the Agreement. Seconded by Councilor Lown.

Councilor Spear said when you have a private party do the construction and the City takes ownership how do we make sure it meets our needs. City Attorney Sullivan said it must meet the specifications from our Public Works Department.

Motion passed.

City Manager's Informational Items

2. *Report Back Re: Off-Leash Dogs*

City Manager Bohenko said we would look into the land on Route 33 at the Park and Ride and making it into a dog off-leash area. He said he would work with the Public Works Department on costs associated with this.

B. MAYOR BLALOCK

1. Establish Work Session for September 12, 2016 at 6:30 p.m. Re: Transportation Services Ordinance

Councilor Dwyer moved to establish a Work Session on September 12, 2016 at 6:30 p.m. regarding Transportation Services Ordinance. Seconded by Councilor Pearson and voted.

C. COUNCILOR PERKINS

1. West End BBQ

Councilor Perkins announced that the West End BBQ will be held on Tuesday, September 13, 2016 from 5:00 p.m. – 8:00 p.m. at the Liars' Bench Nano Brewery.

D. COUNCILOR DWYER

1. Prescott Park Master Plan Update

Councilor Dwyer said that the committee is almost through the planning process for the Prescott Park Master Plan. She spoke to infrastructure ideas and reported that there are no urgent repairs required. She said we would not make changes to the south dock on Four Tree Island and the gardens at the park. She reported that 40% of the park is pavement and the parking lot should be removed. She also spoke regarding the need for the removal of the Norway Maple trees in the park.

E. COUNCILORS LOWN & SPEAR

1. Worth Lot

Councilor Lown moved to request the City Manager to report back with options for the redevelopment of the Worth Lot. Seconded by Councilor Spear.

Assistant Mayor Splaine said he would vote no and we should be protecting any open space we have downtown.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said the motion is for anything but a surface lot. He would like to hear the ideas for the lot.

Assistant Mayor Blalock returned the gavel to Mayor Blalock.

Motion passed. Assistant Mayor Splaine voted opposed.

F. COUNCILORS LOWN & DENTON

1. Declaratory Judgment Action Re: Single Use Plastic Bags

Councilor Lown moved that the City Attorney look into the possibility of filing a Declaratory Judgment Action regarding Single Use Plastic Bags and determine the respondent with a report back to the City Council. Seconded by Councilor Denton and voted.

G. COUNCILOR LOWN

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the July 7, 2016 meeting

Councilor Lown moved to approve and accept the Action Sheet and Minutes of the July 7, 2016 Parking and Traffic Safety Committee meeting. Seconded by Councilor Dwyer and voted.

Legislative Subcommittee Report

Councilor Spear moved to approve the floor policy on Type II noise barriers and submit same to become a NHMA Legislative Policy for the 2017-2018 Legislative Session by vote of its membership at the NHMA Legislative Policy Conference. Seconded by Councilor Dwyer and voted.

Councilor Spear moved to suspend the rules in order to continue the meeting beyond 10:30 p.m. Seconded by Councilor Cyr and voted.

Councilor Spear moved to approve the floor policy on hotel occupancy surcharge and submit same to become a NHMA Legislative Policy for the 2017-2018 Legislative Session by vote of its membership at the NHMA Legislative Policy Conference. Seconded by Councilor Dwyer and voted.

Councilor Dwyer moved to approve the floor policy on prohibiting Accessory Dwelling Units (ADUs) or their principal dwellings from being used as short term rentals and submit same to become a NHMA Legislative Policy for the 2017-2018 Legislative Session by vote of its membership at the NHMA Legislative Policy Conference. Seconded by Councilor Spear.

Councilor Dwyer said that these policies need to be put in place by August 13th for NHMA.

Motion passed.

Assistant Mayor Splaine moved to approve the floor policy on defining short term rentals as home businesses and submit same to become a NHMA Legislative Policy for the 2017-2018 Legislative Session by vote of its membership at the NHMA Legislative Policy Conference. Seconded by Councilor Cyr and voted.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Pearson announced that the Annual Chamber of Commerce Dinner will take place on Thursday, August 4th from 5:00 p.m. – 9:00 p.m. at the Isles of Shoals Steamship Company Dock.

XIV. ADJOURNMENT

At 10:45 p.m., Assistant Mayor Splaine moved to adjourn. Seconded by Councilor Spear and voted.



KELLI L. BARNABY, MMC, CMC, CNHMC
CITY CLERK