

MINUTES  
MAYOR'S BLUE RIBBON COMMITTEE  
ON THE  
PRESCOTT PARK MASTER PLAN  
7:30 A.M. – WEDNESDAY, May 4, 2016  
EILEEN DONDERO FOLEY COUNCIL CHAMBERS

1. Call to Order – Chair, Councilor Chris Dwyer

Chair Dwyer called the meeting to order at 7:30 a.m.

Members in Attendance: Councilor Chris Dwyer, Chair; Mayor Jack Blalock; Councilor Nancy Pearson; Thomas Watson, Trustee of Trust Funds; Dana Levenson, Trustee of Trust Funds and Stefany Shaheen.

Member Absent: Phyllis Eldridge, Trustee of Trust Funds;

Staff Present: David Moore, Assistant City Manager  
Nancy Colbert Puff, Deputy City Manager  
Robert Sullivan, City Attorney

Also in Attendance: Gene Bolinger and Cheri Ruane of Weston and Sampson's Design Studio

2. Consideration of Minutes from April 13, 2016

**Mr. Watson moved to accept the minutes from April 13, 2016, seconded by Ms. Shaheen. Motion passed.**

3. Legal Framework for Prescott Park

Chair Dwyer stated that City Attorney Sullivan is here to answer questions that people have regarding the legal framework document for Prescott Park, which was distributed previously.

City Attorney Sullivan reviewed the handout stating that the City of Portsmouth owns the parcels that make up Prescott Park, but there are deed restrictions. He continued that the Trustees of the Trust Funds have long provided oversight for park maintenance and operations. He continued that commencing since before he can determine, the City Council and City Manager who runs the City on a day-to-day basis and would normally run Prescott Park, decided to let the Trustees of the Trust Fund run the Park. He stated it made sense since they control the funds, but their formal responsibility is to administer the City's Trust in accordance with their terms, including the Josie F. Prescott Trust. He stated that this issue has been discussed by City Councils over the years, but hasn't been changed because people have been content, as the park is run well and looks beautiful. He stated over the last couple of years, the City Council has taken more of an interest in the operations of the Park.

Chair Dwyer stated it has been confusing to City Councils over the years as the Library has a Board of Trustees and it would be the same as them telling the City how to run the Library.

City Attorney Sullivan stated he has worked closely with the Trustees over the years and they have done well to preserve the park for the public benefit.

Chair Dwyer stated that the will mentions no intoxicating liquors will be sold, but does not mention anything about commercialization.

City Attorney Sullivan stated that the Trustees have felt that to have the park be a park there are trees, grass, flowers, etc. but commercial entities are contrary to that spirit, but it is not a requirement in the will or in any deeds.

Mr. Watson stated it is his understanding that there is a history of “Cy Pres” actions and asked if we have to go to court to modify the language of the Trusts, such as the original effort to permit Trust funds to be used to support the Arts Festival in the early days of the Festival.

City Attorney Sullivan explained that the way the trust can be changed if it can be shown that the original intent of the will would be honored with the change. He further explained that the Charitable Trust Unit oversees Trusts to make sure funds are expended in accordance with the trust and the lands held in trust. He concluded that any effort to modify a trust would require input from the Attorney General’s Office Charitable Unit. If they do not approve of the change, it would be difficult to make it.

Chair Dwyer stated there is a distinction between allowing an activity and expending funds for it.

Chair Dwyer stated that the City is the designated Trustee and the Trustees are appointed by the Council.

City Attorney Sullivan stated that is correct, the City Charter calls for the City Council to appoint 3 Trustees of the Trust Funds but the city owns Prescott Park, so the City Manager and City Council have the authority but have ceded it to the Trustees.

Mayor Blalock stated it makes sense that the Trustees have been governing the Park because it mostly involves those funds, and they are like property managers.

City Attorney Sullivan stated that the Gundalow Company built their new replacement dock with approval of the Trustees of Trust Funds and it is only the last few years that agreements have been written for ratification by the City Council.

Mayor Blalock stated that going forward the Park requires more funds to maintain it than are available in the Trusts so we will need to work together; it becomes more important to know that the Council has final authority.

Mr. Levenson stated he agrees and feels that at some point in this process clarity of governance will be greatly appreciated. He continued that it is important to understand the role of the Council going through the process of a new stage and feels it will be so important to communicate and understand decisions going forward.

Councilor Dwyer stated that one of the duties of the consultants will be clarifying the governance. She stated it is important to note as well that the money involved in the Trust for this park and 4.5% or \$175,000.00 per year and is relatively small for what needs to be done.

Assistant City Manager Moore stated that the primary costs that the City has been involved in are Capital Improvements and not maintenance; though some annual funding from the City's General Fund are used in support of park operating costs. He stated there is an appendix in the budget document regarding these expenditures.

Ms. Shaheen asked if there are any specific guidelines for collecting rental income i.e., Prescott Park Arts Festival or the Gundalow Company.

City Attorney Sullivan stated no, that is a policy decision to be made by the Trustees or City Council.

Ms. Shaheen stated she isn't sure that it is appropriate or not, but hasn't heard anything at this point that it can't be done.

Ms. Ruane has seen a wide variety of governance models and evolutions such as this that reach a point that they need to be reconciled.

Assistant City Manager Moore stated indicated that governance of the park is an issue the Committee may want to revisit later in the process.

#### 4. Review of Public Participation Plan and Schedule

Mr. Bolinger and Ms. Ruane began by giving an update of their meetings with several of the Prescott Park stakeholders thus far including the Gundalow Company; NH Art Association; Players' Ring and Prescott Park Arts Festival.

Discussion ensued regarding perceived inconsistencies of allowed uses as well as the use of alcohol in the park. City Attorney Sullivan clarified that it is abundantly clear the Prescott Sisters were opposed to alcohol use in general. There is a restriction in the deeds prohibiting the sale of intoxicating liquors in the Park. Assistant City Manager Moore pointed out that, while there is a difference between sale and consumption, a city ordinance makes clear there is to be no consumption or bringing of alcohol onto city property.

Mr. Bolinger and Ms. Raune then reviewed the proposed public participation plan and schedule suggesting holding a variety of events including a major kick-off event, smaller availabilities to promote the project and the kick-off event, three "park presence" days and three evening meetings all distributed throughout the process. Discussion ensued on the pros and cons of the various proposed venues and dates

Chair Dwyer stated she would like to hold public comment regarding the public participation plan first and then will call for public comment again after the final item is discussed.

Beth Margeson – stated she likes the idea of having something on a Sunday afternoon in the park.

Rick Becksted – stated that if they are planning on holding events at the baseball parks, then they should reach out to Portsmouth Little League president Kathy Lynch. He continued that reaching out to people at Market Square Day will not represent residents of Portsmouth.

Alan Gordon – Board member of Friends of the South End – stated they are looking into having their own information session on this and would like to work with David Moore so not to duplicate or compete, but enhance and share the information in a different way. He stated that they should also consider having an event during the Fairy House Tour in September.

Discussion continued regarding the participation plan venues and dates and it was concluded that the kickoff will be held on Sunday, June 12<sup>th</sup> at Prescott Park with several “soft” events prior to for information and advertising.

## 5. Communications Plan

Councilor Pearson asked who will be creating the content of the website.

Assistant City Manager Moore stated it will be a staff function in coordination with the consultants. He then reviewed a 2 page handout outlining the Objectives and communication tools stating there will be one website for the Committee information and the public is urged to subscribe to an e-mail update list as well as there will be a comment form that can be submitted electronically.

Mr. Watson stated to the Committee Mr. Gordon’s comments reminded him that there are various neighborhood groups and liaisons that should be contacted and involved in the process. Chair Dwyer stated we will connect with Cliff Lazenby, Chair of the Neighborhood Blue Ribbon Committee.

Councilor Pearson would like to have a visualized time-line on the webpage as well.

Chair Dwyer stated she is not looking to formally adopt the plan at this point and would like to get more input once the site becomes live.

Chair Dwyer announced that the next meeting will be held Wednesday, May 18<sup>th</sup> at 7:30 a.m. then opened the floor for public comment again.

## 6. Public Comment

Beth Margeson – stated she hopes the library can be used for one of the more formal meetings as some people are intimidated by the Council Chambers. She continued that the Players Ring building is not a part of the Prescott Park stating that the City bought the building in the 1980’s. Next she discussed commercialization stating that Prescott Parks Arts Festival has a lot of commercial aspects and that is an inconsistency in dealing with other stakeholders. She also disagrees that the Trustees don’t have control quoting from Clause #4 in the Will as evidence to

the contrary. Finally, she stated the city does own Prescott Park but it is held in Trust and is not like Peirce Island with was given outright to the City.

City Attorney Sullivan commented that he continues to respectfully disagree with Ms. Margeson's conclusions.

Marylou McElwain – asked if the apartment building is owned by the City. City Attorney Sullivan stated no. Next, Ms. McElwain asked that a tabletop rendering of the proposed changes be made, i.e., the new stage, as she feels this will show more clearly that the site line of the park will be blocked. She suggested this as a future school project and feels it is an important tool.

## 7. Adjournment

Meeting adjourned at 9:15 a.m.