

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, AUGUST 7, 2017

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, Lown, Pearson, Cyr and Denton

Absent: Councilors Dwyer and Spear

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

Valerie Rochon, President of Chamber of Commerce led in the Pledge of Allegiance to the Flag.

PRESENTATIONS

1. Prescott Park Sound Management Plan Update – Eric Reuter

Assistant City Manager Moore reported that there will be a new License Agreement for the 2018 season and the Chair will be delivering the schedule of shows for 2018 to the City Manager in September.

Mr. Reuter, Acoustical Consultant, provided a presentation regarding the project goals for understanding the issues as they relate to Prescott Park. He reviewed the three areas for the Scope of Work:

- Continuous sound level monitoring – Weatherproof microphone mounted to Prescott Park Arts Festival support building
- Review of sound system – Line array loudspeakers provide ability to control coverage. Require careful design and setup
- Calibrated offsite measurements – determine relative sound levels at representative offsite locations in the community

Project Goal – Understand the Issue

Known: Performances generates noise complaints

Unknown: What can be done to mitigate impacts

Strategy – Control Variables

Unknown:

- What are the sound levels?
- How much do sound levels vary between events?
- Do louder events generate more complaints?

Self-monitoring has been ineffective:

- Uncalibrated equipment
- Untrained operators
- Uncooperative guest engineers

Councilor Denton expressed concern to City Manager Bohenko regarding cars speeding through the area of the parking lot and streets.

2. Presentation – Combined Sewer Overflows – Terry Desmarais, City Engineer; and Suzanne Woodland, Deputy City Attorney

City Engineer Desmarais and Deputy City Attorney Woodland provided a presentation on the 120 miles of collection system with 20% combined, the 3 permitted active Combined Sewer Overflows and 20 pumping stations. Deputy City Attorney Woodland presented information for clarifications regarding North Mill Pond from Maplewood Avenue, Marcy Street drain outfall at Prescott Park, the South Mill Pond from Junkins Avenue and Deer Street looking toward Piscataqua River. She indicated that bacteria of all kinds is common in urban water bodies, particularly at drainage pipe outfalls and there are no designated swimming areas in Portsmouth.

City Engineer Desmarais said Wastewater Treatment Progress in 1950's there was no treatment and today there is secondary treatment upgrade and TN. Sewer Separation Progress in 1950's there was no separation and today 80% is separated. CSO Number and Volume Reduction. He said in the 1950's No CSO control and today 90% reduction volume and 80% reduction outfalls. He address Progress in 1950's No CSO Control, no separation, no treatment and today 90% reduction volume, 80% reduction outfalls, 80% Separated and Secondary treatment upgrade and TN.

V. ACCEPTANCE OF MINUTES – JUNE 19, 2017 AND JULY 10, 2017

Councilor Perkins moved to amend the minutes of June 19, 2017 of Page 9 to include the following: that part of City Attorney Sullivan's rationale of the amendments the Council was making narrowed the scope of the Charter provision and that is why the City Attorney and the Council felt they were non substantive because a wider audience had already been noticed and so the Council was narrowing the action they were taking. Seconded by Councilor Lown.

Councilor Lown moved to pass the June 19, 2017 minutes as amended and the July 10, 2017 minutes. Seconded by Councilor Perkins and voted.

VI. PUBLIC COMMENT SESSION

Assistant Mayor Splaine asked if we would be making City Council rule changes this evening. Mayor Blalock said the issue is being brought up for discussion purposes this evening.

Peter Whelan asked if all the flows going to Peirce Island will receive secondary treatment. He said the plant will never be able to meet EPA permit limits.

Jackie Cali-Pitts said that the Council are public servants and you cannot deny any one the right to be heard. She said the ideas are good but you should augment the Public Comment Session. She said the Council should continue to allow people to voice their opinions.

Paige Trace said there is still an out flow going into the Piscataqua River and you need to stop the discharge. She said she doesn't understand why the City uses the word reduction when it comes to CSO's instead of elimination.

Wes Tater thanked the City Council for their work and hours they put in while being City Councilors. He spoke to Councilor Denton's resolution on putting a tax on fossil fuels that come out of the land. He urged the City Council to adopt the resolution and join the 49 other communities and Portland, Maine.

Susan Alex said do we have affordable housing in the City. She said there will be a referendum for rent control in Portland, Maine. She wants to see affordable housing in the City.

Arthur Clough spoke to the site Tugportsmouth.com and said many of the comments on the site are offensive and he alleged that the site has been tracked to Art-Speak. He asked why the City gives free rent and endorses such a group as Art-Speak.

Mark Brighton spoke on parking along Mechanic Street. He addressed the new parking restrictions on Mechanic Street and would like the City Council to approve them.

Cliff Lazenby spoke in support to reviewing a format to open up the communication efforts. He said you should seek answers for input. He suggested holding ward forum's to bring people out as a group and then Council could open it up for public input by residents.

Zelita Morgan spoke in favor of bringing forward innovated ways. She encouraged the City Council to bring forward Portsmouth Study Circles system for a way to conduct public dialogue.

Rick Becksted said he is in favor of the enhancement of the Public Comment Session and the changes to public hearings but he does not support the City Clerk having to print out all emails received. He does like the candidate forums but they should be in addition to public comment session. He would like to sit down with the City Council and staff if there was an open dialogue.

Dixie Tarbell said she understands why the City Council wants to make changes to the public comment session.

Jane Zill spoke opposed to stopping public comment. She said it provides effectiveness in government. She said people rely on television for their points of information. She said dialogue will be ineffective and you need to keep Public Comment Session that is televised.

VII. PUBLIC HEARING

A. RESOLUTION AUTHORIZING THE BORROWING OF UP TO THREE MILLION DOLLARS (\$3,000,000.00) THROUGH THE ISSUE OF BONDS AND/OR NOTES FOR ADDITIONAL COSTS FOR THE CONSTRUCTION OF A NEW PARKING FACILITY

Dave Allen provided a brief presentation on the borrowing Resolution. He reviewed the project history. He spoke to the three areas for the increase in costs: 1) construction costs increases, 2) scope of project has changed and there were improvements to the utilities, and 3) design for soils and site remediation for the garage is mostly precast concrete. He spoke to items that maybe removed but they are all valuable to the project. He said all the items were looked at closely and the Committee voted unanimously to keep the items and not to take away the aesthetics of the project.

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

Valerie Rochon, Chamber of Commerce, said the lack of parking is hurting the downtown businesses. She said business is down this summer and City businesses are losing dollars due to the lack of parking. She said she supports the Resolution.

Everett Eaton said this is the most important project the Economic Development Commission has seen in the last 17 years that he has been serving on the Commission. He said we are in dire straits when it comes to parking and he strongly urges the City Council to support the Resolution.

Kathy Reddington, Portsmouth Business Owner, said the parking garage needs to be done.

Dixie Tarbell said we needed the parking garage years ago. She said we need to start welcoming people into the City with the new garage.

Rick Becksted said he supports the garage and the site was discussed but the money for the project was not listed and now we are approaching \$30 million. He said Port Walk Place advertises public parking which is adding to a loss for us. He asked if this would be the last request for funds for building the new parking garage.

Paige Trace said that an incredible job has been done with the garage. She spoke in support of the Resolution and said let's make sure the Public Works Department also is taken into account and taken care of with whatever might be necessary from their perspective for the operation of the garage.

After three calls and no further speakers, Mayor Blalock declared the public hearing closed.

At 9:00 p.m., Mayor Blalock called for a brief recess. At 9:05 p.m., Mayor Blalock called the meeting back to order.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to the Coalition Legal Fund
- Town of Carroll - \$2,000.00

Assistant Mayor Splaine moved to approve and accept the donation, as listed to be placed in the Coalition Legal Fund. Seconded by Councilor Pearson and voted.

- B. Acceptance of Donation to the Police Department from the Estate of Geraldine Webber - \$188,129.88

Assistant Mayor Splaine moved to approve and accept the donation to the Portsmouth Police Department, as presented. Seconded by Councilor Lown.

City Manager Bohenko said that the departments will need to go through the Commission for purchases so they are reflected in the minutes. He indicated it would be more about the Capital Improvement Plan next year.

Motion passed.

- C. Acceptance of Donation to the Fire Department from the Estate of Geraldine Webber - \$188,129.88

Assistant Mayor Splaine moved to approve and accept the donation to the Portsmouth Fire Department, as presented. Seconded by Councilor Lown and voted.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Adoption of Resolution Authorizing the Borrowing of up to Three Million Dollars (\$3,000,000.00) through the Issue of Bonds and/or Notes for Additional Costs for the Construction of a New Parking Facility

Assistant Mayor Splaine moved to adopt the proposed Resolution Authorizing the Borrowing of up to Three Million Dollars (\$3,000,000.00) Through the Issue of Bonds and/or Notes for Additional Costs for the Construction of a New Parking Facility, as presented. Seconded by Councilor Pearson.

Assistant Mayor Splaine said he has not seen much debate on the additional funds and it is clear that the former City Council and this Council want to have the new parking garage built. He said the West End area of the City can be served by the new garage. He stated the design of the building is good and feels we over paid for the garage land.

Councilor Lown thanked Dave Allen for leading the way on this project.

Councilor Denton said he wanted to see roof top solar and is electric vehicle charging stations something that could be programmed in. Dave Allen said we hope to come in under the \$3,000,000.00 to add the electric vehicle charging stations or add it later to the project.

City Manager Bohenko said we will add a couple of charging stations at City Hall.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said we need to stay on task and add the \$3,000,000.00. He said that the design for the new garage is spectacular.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Cyr said he is pleased that we are adding charging stations. He said there is a change in how cars are being built.

On a unanimous roll call 7-0, voted to adopt the proposed Resolution Authorizing the Borrowing of up to Three Million Dollars (\$3,000,000.00) Through the Issue of Bonds and/or Notes for Additional Costs for the Construction of a New Parking Facility, as presented.

- B. Third and Final Reading of Proposed Ordinance Amendments to the Annual Omnibus Ordinances:
- Amending Chapter 7, Article III, Section 7.326 – Limited Parking – Fifteen Minutes
 - Amending Chapter 7, Article III, Section 7.330 – No Parking
 - Amending Chapter 7, Article III, Section 7.336 – One Way Streets
 - Amending Chapter 7, Article VII, Section 7.702 – Truck Traffic Prohibited

Councilor Perkins moved to pass third and final reading of the proposed Ordinances, as presented. Seconded by Councilor Lown and voted.

X. CONSENT AGENDA

- A. Request for License to Install Projecting Sign from Mark Sullivan owner of Paul Mitchell the School for property located at 140 Congress 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 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 to Install Projecting Sign from Peter Mocklis owner of Look Fine Eyewear/Sol Sunwear for property located at 68 State 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 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 Lown moved to adopt the Consent Agenda. Seconded by Councilor Cyr and voted.

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

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

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Request to Establish First Reading on Proposed Ordinance Amendments to Chapter 4 Pertaining to the City's Food Licensing and Regulations

City Manager Bohenko said he would like first reading on the ordinance for the Health Code which is really a draft at the next City Council meeting.

Councilor Lown moved to authorize the City Manager to bring back the first of three Code updates, Food Licensing and Regulations, to the City Council for first reading at the August 21, 2017 City Council meeting. Seconded by Councilor Perkins and voted.

2. Report Back Re: Oak Street Paper Street Request

City Manager Bohenko said this item was referred to the Planning Board in May and their recommendation is back.

Councilor Lown moved to accept the Planning Board's recommendation and vote that the City release any interest it may have in the paper street known as Oak Street. Seconded by Councilor Perkins and voted.

3. Acceptance of Traffic Signal and Sidewalk Easement Re: 1574 Woodbury Avenue

City Manager Bohenko said the Planning Board reviewed this matter and is recommending acceptance for the traffic signal and sidewalk easement.

Councilor Lown moved to accept the Planning Board's recommendation for the acceptance of a traffic signal and sidewalk easement from Richard Fusegni relative to property at 1574 Woodbury Avenue. Seconded by Assistant Mayor Splaine and voted.

4. Request for Public Hearing Re: Acceptance of SB38 Funding (Highway Aid)

City Manager Bohenko reported the State of New Hampshire is adding additional highway funding and we would need to hold a public hearing on this matter before receiving the funding that has been designated for the City of Portsmouth.

Councilor Perkins moved to establish a public hearing on Monday, August 21, 2017 regarding the acceptance of SB38 funding (highway aid). Seconded by Councilor Lown.

5. Acceptance of Easements Required for Andrew Jarvis Drive Intersection Improvement Project

City Manager Bohenko said that we will be making improvements to the area which is a challenged area currently.

Councilor Perkins moved to authorize the City Manager to accept the sidewalk easements in a form substantially similar to the attached in the City Council packet for the purpose of constructing improvements to the Lafayette Road and Andrew Jarvis Drive intersection. Seconded by Councilor Lown and voted.

6. McIntyre Property Retreat – September 9th

City Manager Bohenko said the retreat will be on September 9th regarding the McIntyre Building. He said that this will allow you not to be pressured for time.

Councilor Perkins moved to establish a Work Session for Saturday, September 9, 2017, regarding the McIntyre property reuse. Seconded by Councilor Pearson.

Assistant Mayor Splaine said he would not be able to attend as he has prior plans.

Councilor Perkins said she feels we could have more input before issuing the RFP on the August 22nd.

Councilor Denton asked if something could be added to the RFP. He said on pages 7 & 8 he would like to add work force housing to the list.

Deputy City Manager Colbert Puff said she would be happy to receive any changes.

Mayor Blalock said the retreat would be from 9:00 a.m. to 1:00 p.m.

Councilor Perkins said she would submit comments to Deputy City Manager Colbert Puff and she would like to know the process for bringing forward proposals.

Deputy City Manager Colbert Puff said this is a public private partnership which is different from other projects in the City.

Motion passed.

City Manager's Informational Items

2. *Municipal Election Filing Period*

City Manager Bohenko announced that the filing period for the Municipal Election has been scheduled by City Clerk Barnaby. The filing period will be Monday, August 28th through Monday, September 11th.

3. *Zagster Bike Share May/June 2017 Snapshot*

Councilor Cyr requested additional information regarding the revenue we are receiving and the amount of use that Zagster is getting beyond the first two hours.

4. *Memorandum Re: Keno*

Councilor Lown stated he would like to find out more about this matter. He said if we don't get it on the ballot would we have to wait two years to get it back on the ballot. He said if there is money that is going to be received from Keno we should allow the public to vote on the issue. He indicated he would have Keno under his name for the August 21, 2017 City Council meeting.

B. MAYOR BLALOCK

1. Reappointment of Marylou McElwain to the Parking & Traffic Safety Committee

The City Council considered the reappointment of Marylou McElwain to the Parking & Traffic Safety Committee to be voted on at the August 21, 2017 City Council meeting.

2. Appointment to the Rockingham Planning Commission:
 - Jody Record, Planning Board Member
 - Peter Britz, Environmental Planner / Sustainability Coordinator as an Alternate member

Assistant Mayor Splaine moved to appoint Jody Record and Peter Britz to the Rockingham Planning Commission. Seconded by Councilor Perkins and voted.

3. City Manager's Evaluation (*Informational Only*)

No action required.

C. ASSISTANT MAYOR SPLAINE

1. Thoughts on Reuse of the McIntyre Federal Building

Assistant Mayor Splaine said he did not attend the work session on the McIntyre Building. He forwarded information he would like to find a way to incorporate the old State House at the McIntyre Site. He stated the adjacent area to the rear of the McIntyre building around the State House and overlooking Bow Street and the river could become an urban park with an outdoor amphitheater and a fountain – a place to perform, and a “town square” to talk. He said it can become a gathering spot for people to hear speeches and dialogues as we go through the decades of the 21st century celebrating the democracy that Senator McIntyre, and our early settlers, fought so long ago to create for us today.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock thanked Assistant Mayor Splaine for keeping this alive. He would like to see a replica at the McIntyre Site.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

D. COUNCILOR LOWN

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the July 6, 2017 meeting

Councilor Lown said there was discussion at the meeting regarding changing Middle Street to accommodate bicycle lanes.

Councilor Lown moved to approve and accept the action sheet and minutes of the July 6, 2017 Parking and Traffic Safety Committee meeting. Seconded by Councilor Pearson and voted.

E. COUNCILOR PEARSON & PERKINS

1. ***Rule 43 – Public Comment (*Proposed motion – move to remove Rule 43 – Public Comment Session and replace with Council-Public Dialogue at 45 minutes before City Council business (Non Public Session and Work Sessions) on the night of a regularly scheduled Council meeting the Council, Manager, and any appropriate staff shall welcome all interested individuals for an informal dialogue session. The purpose of the session is to provide an opportunity for members of the public to directly interact with members of the Council, the City Manager and department heads (with the discretion of the City Manager). From time to time, such session may be held in various locations in the City and need not only occur in City Hall.***

(Proposed motion – move to make procedural change to Public Hearings. Reorganize the order of procedure for all public hearings to “bundle” all the pieces of each topic which requires a public hearing. The public hearing process would go as follows: first, any presentation by the city; second, council questions and deliberation; third, public hearing; and fourth, additional council questions and deliberations, then council vote. The purpose of this restructuring is to streamline the process and allow the public to benefit from any presentation and council deliberation before making their comment, in addition to making the process easier to understand and more transparent to residents. In addition, each topic would be presented from start to finish at once instead of spread out over several hours.

(Proposed motion – move to enter emails sent to City Council into public record. Residents and community members will have the option when emailing the city council to have their email entered into the city council packet and public comment record for the meeting. The purpose of this is to provide additional opportunities for the public to contribute input into the public record. Residents would need to follow the same rules for public comment and include name and address along with their comment. Such comments would be updated by any comments received after the packet is released and prior to Monday at noon)

Councilor Pearson informed the Council that this will be on the August 21, 2017 City Council meeting for action by the City Council.

City Attorney Sullivan explained the process for amending or creating a new City Council Rule and Order with the first meeting being the notice.

Councilor Pearson said Councilors Spear and Dwyer feel we engage in a lot of dialogue. She said one of the last productive ways is during Public Comment Session.

She said Public Comment Session limits the quality and engagement of the session. She said the same people are coming forward on this matter and she wants to improve the dialogue and follow the Portsmouth Listens system. Councilor Pearson said we want to encourage more interaction. She stated that this is improving engagement and allows for a conversation and answers to questions.

Councilor Perkins said that there are many other people that may want to participate but this can be an intimidating forum. She said we need to make sure government remains relevant.

Councilor Denton thanked the City Council for bringing the information forward. He said it will only be effective for 4 months which is the remainder of this City Council term.

Assistant Mayor Splaine said he is glad that the 4 City Councilors are bringing this as an addition to the Public Comment Session. He said the Public Comment Session has been part of the City Council for the last 25 years. He said we need to keep citizens above government. He stated if we are just looking for engagement you can join him in his neighborhood walks. He does not feel we should get rid of Public Comment Session.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he likes the idea very much to have public dialogue. He would like to see one meeting for public dialogue and one for Public Comment Session.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Lown thanked the City Council for bringing this matter forward. He feels that this makes so much sense. He said some people are not at ease addressing the City Council and having it televised. Councilor Lown said the public dialogue is worth trying.

Councilor Cyr said for the Public Comment Session to really work maybe this would be a useful project. He said there is no change that could be made that will make everyone happy.

Councilor Perkins said we are often making decisions late at night and this would allow for the City Council to take matters up earlier and make a decision. She said people wait through Public Comment Session then Public Hearing is held and they are not benefited by the information from the City staff. She said we need to make decisions more transparent and make comments more coherent.

Assistant Mayor Splaine said that presentations need to be shorter.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he likes the proposal and it keeps everything compartmentalized. He said we need to change the format of the agenda and would that require a vote by the City Council.

City Manager Bohenko said that this would be a rule change.

City Attorney Sullivan said “notwithstanding the provision of any other rule” is what the motion should start with.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Pearson said when an issue comes forward we receive many emails but we feel it would provide another way to get their email into public record. She said this is a way to weigh in for the public.

Councilor Perkins said this is a move to have different input weighed together. She said this is another move towards transparency.

Councilor Cyr said he feels there needs to be more clarity.

Assistant Mayor Splaine said that these changes could be a violation of the meeting law. He asked do minutes have to be kept, what do we do about videoing the sessions.

F. COUNCILOR DENTON

1. Carbon Free and Dividend Resolution

Councilor Denton indicated he would have this item on under his name for the August 21, 2017 City Council meeting. He said that this is the final item from last year’s retreat. He stated the Resolution follows us on what residents looked at. He said that this is a national approach on a large scale.

Councilor Cyr requested that Councilor Denton provide the list of communities that have adopted the Carbon Free and Dividend Resolution for the next City Council meeting.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

XIV. ADJOURNMENT

At 10:30 p.m., Councilor Lown moved to adjourn. Seconded by Councilor Cyr and voted.



City Clerk