

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, DECEMBER 3, 2018

PORTSMOUTH, NH
TIME: 6:15 PM

Public Dialogue Session – One Table

PRESENT: Mayor Blalock, Assistant Mayor Lazenby, Councilors Roberts, Pearson, Denton, Perkins, Raynolds and Becksted

The members of the public were asked to introduce themselves and begin discussing their concerns and/or questions related to their individual topics.

John Mikolajcyk, Portsmouth resident and Manager of the Portsmouth Elks Lodge stated that he and Frank Desper of the American Legion, are requesting that the City Council reconsider allowing Keno in the City of Portsmouth for non-profit organizations. He further explained that Keno would be very helpful for their charitable fundraising.

City Attorney Sullivan explained that it is not possible to authorize keno per type of business or non-profit agency and the City Council has no authority over it other than to vote to put in on the ballot per City Charter. He stated that the City Council in 2017 voted against bringing it to the voters.

Mayor Blalock concurred stating that this can be brought forward again for a Council vote to put to the next Municipal ballot or a petition can be brought forward as well. He continued that if it passes, then any establishment that wanted to have Keno could have it and the city would have no control of it.

Councilor Denton stated that a petition with signatures amounting to 10% of the last municipal election's voters would be required.

Councilor Raynolds asked what the benefit of Keno would be to the Elks and other non-profits.

Mr. Mikolajcyk explained that the Elks raises approximately \$80,000 a year in charitable donations and it is currently through member donations, pull tab tickets, etc. He stated that Keno would allow another resource to raise these funds.

Councilor Raynolds stated that is admirable and he would consider Keno for non-profits if that was allowed, but at this point the law would have to be changed. He stated he is not in favor of all businesses being able to have Keno.

Councilor Roberts stated he is sympathetic but is opposed to opening the city up to any type of gambling.

Mayor Blalock stated that if this went to the ballot then the community would decide. He stated we could also reach out to those communities who did approve it and see how it is working out.

Mr. Mikolajcyk stated that there are many restaurants and bars that don't want Keno and they wouldn't have to offer it.

Harold Whitehouse thanked everyone in the City for taking care of him and his family and friends at the recent Holiday Parade where he was this years' Grand Marshall.

Erik Anderson discussed the current budget process which is beginning earlier than usual and asked what the expectations are of the new process. He asked if they will be going by department rather than issuing a flat-line increase across the board stating that any increase puts a variety of people on the fringes of being able to afford to live here.

Mayor Blalock stated he is glad we are starting the process earlier as we can find out from the departments what they want and how much it will cost and also make the public aware earlier. He explained that the Joint Budget Committee used to set an arbitrary number across the board, but all departments are different and have different needs.

Mr. Anderson asked if there is a perception that last year's budget is the baseline and feels that the CAFR audit document is needed to be a part of this process.

City Manager Bohenko stated that the second meeting of January 2019 is when the Auditor will make the presentation of the CAFR to the City Council and the document will be posted to the web after that meeting.

Councilor Pearson stated that this will be her 3rd budget process and explained that a vast majority of the budget is salary and benefits which goes up every year and the Council has no control over that. She stated this means that last years' budget is the starting point because otherwise we start cutting services.

Councilor Raynolds agreed stating that unless people believe that the current budget has extra people who aren't needed then yes we start with the current budget. He stated that the City Manager and staff do look for efficiencies in other places.

Assistant Mayor Lazenby stated he likes that we are beginning earlier and hearing what the increases may be and the impact of those.

Roy Helsel discussed the salaries of the employees stating that there are 19 people who make over \$100,000, 20 who make over 90,000, many more over \$80,000 and they all get benefits.

Councilor Roberts stated his goal is still to keep the increase below the rate of inflation but it is a challenge with a 2% built in raise in salaries.

Patricia Bagley asked about the off-street zoning ordinance amendment being proposed on tonight's agenda and whether this is expected to benefit the public, residents or developers.

Councilor Roberts stated this would make it more difficult to grant exceptions to developers. He stated we will be looking to get all Boards and Commissions together to talk about parking policies in the future.

Planning Director Walker stated she will be making a presentation this evening but this is meant to formalize what is already allowed, it is not a change.

Mrs. Bagley asked if this is a change of wording for no reason.

Planning Director Walker stated it is meant to be a better explanation of the process.

Russell Osgood, City of Portsmouth Firefighter, spoke in support of the proposed letter to NIOSH regarding PFAS health study for firefighters. He explained that firefighters were removed from the Pease testing because of additional occupational exposures.

Councilor Reynolds asked if we are one of many making this request.

Mr. Osgood explained that there are other privately funded studies going on, but they are hoping to be the catalyst for NIOSH.

Assistant Mayor Lazenby stated when it was announced that the firefighters were being eliminated from the testing, it was understood for this particular case, but it also brought the issue to light.

Wes Tator spoke regarding climate change and thanked and congratulated the City Council for passing the resolution regarding endorsement of the Carbon Fee and Dividend which will place a fee on fossil fuels at the source. He stated that this comes on the heel of 2 disturbing reports on Climate change and wishes Councilor Dwyer was present so he could assure her that her concern regarding passing the resolution not doing any good, did in fact make a difference. He stated there has been tremendous press coverage which provides the foundation for furthering support so when it comes back to the Legislature as a bipartisan bill, it broadens the capacity of people to talk across party lines.

Beth Danilowski presented a petition of over 150 signatures, both downtown business employees and residents, requesting that the high-occupancy zone not be expanded. She explained that there are safety concerns as well as raising the rates which will push people to park in residential areas.

Louise Richardson, mother of Beth, stated she is proud of the efforts her daughter is making and feels that people assume that if you live in Portsmouth, you have money. She stated she and her husband own property downtown and rent to working class people at affordable rents, but parking is always an issue and makes it hard for them to afford to live here. She stated people with money have no problem paying the extra fees, but working people do.

Councilor Pearson stated that residents will be able to get the resident discount rates.

Ms. Danilowski stated that with the rate increase, the residential fee will still be .25 more.

Assistant Mayor Lazenby stated raising the rates is not meant to squeeze more money out of people, but is meant to promote turnover of the spaces. He stated that residents will have the opportunity for discounted rates with the new app and he feels it is important to get the right mix.

Mayor Blalock stated he heard the concerns of Mr. and Mrs. Richardson at the last meeting regarding the small area of Washington Street and agrees that it should not be a part of the high occupancy zone and will be proposing an amendment accordingly.

Basil Richardson reiterated the concerns previously addressed by his daughter and his wife regarding the effect of the rate increases on his tenants.

Mayor Blalock closed the Public Dialogue session at 7:00 p.m.

CALL TO ORDER

Mayor Blalock called the meeting to order at 7:10 p.m.

I. ROLL CALL

PRESENT: Mayor Blalock, Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer (via teleconference), Denton, Perkins, Raynolds and Becksted

II. INVOCATION

Mayor Blalock asked everyone to join in a moment of silence and recognized the recent passing of President George H.W. Bush.

III. PLEDGE OF ALLEGIANCE

Mayor Blalock led in the Pledge of Allegiance.

IV. ACCEPTANCE OF MINUTES – SEPTEMBER 17, 2018 AND OCTOBER 1, 2018

Assistant Mayor Lazenby moved to accept the minutes of September 17, 2018 City Council meeting, seconded by Councilor Roberts.

Councilor Becksted requested an amendment to page 16, correcting Councilor Perkins to Councilor Pearson.

Motion to accept September 17, 2018 minutes as amended pass on an 8-0 roll call vote. Councilor Raynolds was out of Chambers.

Assistant Mayor Lazenby moved to accept the minutes of October 1, 2018 City Council meeting, seconded by Councilor Roberts. Motion passed on a 9-0 roll call vote.

V. PUBLIC DIALOGUE SUMMARY

Assistant Mayor Lazenby gave a brief summary of the topics discussed at the Public Dialogue session.

VII. PUBLIC HEARINGS & VOTES ON ORDINANCES AND/OR RESOLUTIONS

- A. Second reading amending Chapter 10 – Zoning Ordinance by deleting the existing Article 12 – Signs, and inserting it its place in a new Article 12 – Signs as presented in the Document Titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs” dated September 25, 2018 ***(Postponed second reading at the November 19, 2018 City Council meeting)***

Councilor Perkins moved to remove item from the table. Seconded by Assistant Mayor Lazenby and voted on a 9-0 roll call.

Planning Director Walker gave a brief presentation of the changes being requested regarding Flags and Elections Signs to be added to the ordinance amendment.

Councilor Becksted stated he hates election signs and always thought there was a time limit to picking up signs. He stated he would still like to have it be that signs must be picked up within 7 days after the election and feels that people were looking at an extension before the election, not after.

Councilor Roberts asked if the sign that resident Ruth Griffin puts in her yard will exceed the proposed sign limit of 6 feet.

Planning Director Walker stated yes, it will be illegal, and clarified that it is currently not allowed anyway, but they would be asked to comply.

Councilor Denton asked about the various signs that have been posted in people’s yards as to content.

Planning Director Walker stated this is not about content, unless it is very offensive.

City Manager Bohenko stated we always try to be on the more lenient side but if there is an ordinance, we have the mechanism of enforcement if something is unsafe, etc.

Next, discussion ensued regarding the Flags portion of the ordinance with Planning Director Walker explaining that currently they are not allowed, but feels it is important to have the definition and regulation in place for consistency.

Councilor Denton moved to amend the proposed amendments to Article 12 of the Zoning Ordinance by revising Section 10.1222.70 pertaining to the regulation of flags and by inserting definitions for “flags” and “flagpoles” to Section 10.1290 as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated November 27, 2018, seconded by Assistant Mayor Lazenby.

Councilor Becksted stated he doesn’t see the need to regulate Flags.

City Manager Bohenko stated that it will give staff guidance.

Councilor Roberts stated he is ambivalent about Ruth Griffins' sign, but will support this and look at it again if there is a problem.

Motion passed on an 8-1 roll call vote, Councilor Becksted voted oppsed.

Assistant Mayor Lazenby moved to pass second reading and schedule third reading for December 17, 2018 of the amendments to the Zoning Ordinance to delete the existing Article 12 – Signs, and insert in its place a new Article 12 – Signs, as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated November 27, 2018., seconded by Councilor Pearson. Motion passed on a 9-0 roll call vote.

- B. Third and final reading on Ordinance amending Chapter 7, Article I, Section 7.102 – Parking Meter Zones, Subsection A, Downtown High Occupancy Zone

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock moved to suspend the rules to allow for amendment to ordinance, seconded by Councilor Denton. Motion passed on a 9-0 roll call vote.

Mayor Blalock moved to amend by deleting #17 – Washington Street from State Street to Court Street – from Section 1.702, Parking Meter Zones, Paragraph A, Downtown High Occupancy Zone and renumbering accordingly, seconded by Councilor Denton.

Mayor Blalock explained that he took to heart the testimony from Mr. and Mrs. Richardson about this issue and in particular the section of Washington Street which seemed out of place in the proposed zone.

Councilor Becksted stated he agrees with Mayor Blalock on this section, but the Richardsons also spoke about the other areas as well and the impact to workers and residents. He suggested changing the time back to 2 hours instead of 3 hours which would help with the turnover.

Mayor Blalock explained that it used to be 2 hours but the restaurants requested 3 hours to allow people time to eat, etc. He stated the hours of enforcement were also extended.

Councilor Pearson stated she supports this amendment as this section is not an area most people are familiar with anyway.

Councilor Dwyer stated that there would be a discount to residents anyway.

Motion to amend passed on an 8-1 roll call vote, Councilor Dwyer voted opposed.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

Councilor Pearson moved to pass third and final reading of the proposed Ordinance, as amended at the November 19, 2018 and December 3, 2018 City Council meeting, seconded by Councilor Denton.

Councilor Becksted asked Parking Director Fletcher if putting the hours back to 2 would help with the turnover.

Parking Director Fletcher stated that we have turnover already but the issue is demand and pricing strategy.

Councilor Becksted asked if there has been any change since the Foundry Place garage went online.

Parking Director Fletcher stated there has been about an 8-10% drop.

Assistant Mayor Lazenby asked if the mid-February effective date is still good in regards to the app being available. He stated that it was clever to design this so that it will essentially pay for itself.

Parking Director Fletcher stated yes, there is a 30-45 day roll out on the app.

Councilor Roberts stated that there was discussion on dynamic pricing previously and asked when we will know if that is practical.

City Manager Bohenko stated there will be a report back coming.

Motion passed on an 8-1 roll call vote, Councilor Becksted voted opposed.

VIII. APPROVAL OF GRANTS/DONATIONS

(There were no Grants/Donations on the Agenda this evening)

IX. CONSENT AGENDA

(There were no Consent Agenda Items on the Agenda this evening)

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

A. Email Correspondence

Councilor Reynolds moved to accept and place on file. Seconded by Assistant Mayor Lazenby and passed on a 9-0 roll call vote.

B. Letter from Joel Greer, Summit Indie Festival requesting permission to hold the Summit Indie Festival on Saturday, May 11, 2019 at the Book and Bar with low amplification

Assistant Mayor Lazenby moved to refer to the City Manager with power. Seconded by Councilor Pearson and passed on a 9-0 roll call vote.

- C. Letter from Attorney Ciandella regarding Request of 290 Gosling Road, LLC for Zoning Change from Waterfront Industrial (WI) to Officer Research (OR) for property located at Gosling Road, Tax Map 213, Lot 1

Assistant Mayor Lazenby moved to refer to the Planning Board for report back. Seconded by Councilor Perkins and passed on a 9-0 roll call vote.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

- 1. Presentation and Request for First Reading of Zoning Ordinance Amendments to Article 11 Off-Street Parking

Planning Director Walker gave a brief power point presentation explaining the amendments being requested.

Councilor Pearson moved to schedule a first reading for the January 7, 2019 City Council meeting to amend the Article II – Site Development Standards, Section 10.1110 – Off-Street Parking, as presented in the document titled “Proposed Off-Street Parking Amendments” dated October 18, 2018, seconded by Assistant Mayor Lazenby.

Councilor Becksted requested that examples of the approvals and outcomes be provided when the ordinance is presented for first reading.

Councilor Dwyer suggested putting in parameters as defined in the parking demand analysis. She also asked if it would automatically go to the Planning Board or would they be able to go to the ZBA.

Planning Director Walker stated that staff would encourage people not to go to the ZBA first but they cannot prevent them from doing that, although the ZBA wants people to go to the Planning Board first as well. She stated that the decisions will be content-based at the Planning Board level with an overall view of development.

Mayor Blalock clarified they can still go to the ZBA.

Councilor Becksted asked if examples can be provided based on the McIntyre Project.

Planning Director Walker stated that she can provide historical data but not project into the future.

Councilor Perkins stated this process is a collaborate effort to try and reduce the burden to the ZBA of the one-off requests.

Councilor Roberts asked about parking restrictions that only apply to residences and hotels but are less strict on businesses.

Planning Director Walker stated these are based on parking principles that are already in place.

Councilor Roberts asked if there is anything in the Zoning ordinance regarding 3 apartments having 2 parking spaces and having to provide long-term lease or a payment to the City.

Planning Director Walker explained there is a shared parking provision in the ordinance, but there is no “in lieu of” any longer because that was cumbersome to manage.

Motion passed on a 9-0 roll call vote.

2. Presentation and Request for First Reading Re: Amendments to Article 2 (Administration and Enforcement) of Zoning Ordinance by Inserting a New Section 10.240 Regulating Requirements and Criteria for Granting of a Conditional Use Permit (Presentation to be made by Juliet Walker, Planning Director)

Planning Director Walker gave a brief power point presentation explaining the amendments being requested.

Councilor Pearson moved to schedule a first reading for the January 7, 2018 City Council meeting to amend the Portsmouth Zoning Ordinance, Article 2 – Administration and Enforcement, by inserting a new Section 10.240 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Section 10.240 – Conditional Use Permits, dated November 19, 2018, seconded by Assistant Mayor Lazenby.

Councilor Becksted requested that examples of the approvals and outcomes be provided when the ordinance is presented for first reading.

Motion passed on a 9-0 roll call vote.

3. Request for Public Hearing Re: Use of Bond Premiums

Assistant Mayor Lazenby moved to schedule a public hearing for the December 17, 2018 City Council meeting, seconded by Councilor Pearson.

Councilor Becksted requested a breakdown of what will be spent on the municipal complex, etc.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock stated that this money is available because the city is managed so well financially. He stated that because of our low bond rating our bonds are very popular and hard to come by and credited the City Manager, Finance Director and staff.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

Motion passed on a 9-0 roll call vote.

City Manager's Informational Items:

1. Events Listing
2. Budget Award
3. Cable Franchise Agreement

City Manager Bohenko stated that the Cable Franchise Agreement will be on the December 17th agenda stating that there are limited areas that can be negotiated as a city, but we are looking at fees regarding PPMTV and Channel 22 etc.

Mayor Blalock commended the City Manager and staff for again receiving the Budget Award.

City Manager Bohenko stated there are only 3 awarded in the State of New Hampshire.

B. MAYOR BLALOCK

1. Appointments to be Considered:
 - Corey Clark reappointment as an alternate to the Planning Board
 - Dexter Legg reappointment to the Planning Board
 - Elizabeth Moreau reappointment to the Planning Board
 - Thomas Watson reappointment to the Trustees of Trust Funds

The aforementioned individuals were considered for reappointment and will be voted at the December 17, 2018 City Council meeting.

2. Appointments to be Voted:
 - Chase Hagaman reappointment as an alternate to the Zoning Board of Adjustment

Councilor Becksted requested clarification from the Clerk that Mr. Hagaman is being reappointed as an alternate as the agenda did not specify.

Assistant Mayor Lazenby moved to reappoint Chase Hagaman as an alternate to the Zoning Board of Adjustment with term to expire December 1, 2023. Seconded by Councilor Pearson and voted on a 9-0 roll call.

3. Resignation of Dr. Arthur Hilson from Police Commission

Assistant Mayor Lazenby moved to accept the resignation with deep regret, of Dr. Arthur Hilson from the Police Commission. Seconded by Councilor Roberts and voted on a 9-0 roll call.

4. Discussion Re: Vacancy on the Police Commission

Mayor Blalock stated he is going to form a committee to review applications to fill the vacancy on the Police Commission. He stated he is planning on appointing 3 Councilors and 2 citizens.

Councilor Denton stated he is fine with the committee to make recommendations but asked if a Councilor can also bring forward candidates.

Mayor Blalock stated yes, the committee will only be making recommendations.

Councilor Denton stated he would like to see the process formalized and advertised to let people know we are accepting applications during the time before the committee is announced.

Councilor Becksted stated he is in favor of this process but explained the last time this occurred the committee was made up of only residents and no Councilors and would like to see this again.

Mayor Blalock stated Councilors are residents as well and feels that there should be Council representation. He stated he will announce the committee at the December 17th Council meeting and explained that the Police Commission cannot meet without all 3 members.

Councilor Becksted moved to allow Mayor Blalock to form a committee to review candidates for the Police Commission which will be announced at the December 17, 2018 City Council meeting, seconded by Assistant Mayor Lazenby.

Councilor Dwyer asked if the replacement will be for the remainder of the term or until the next election.

City Attorney Sullivan stated the replacement will be appointed until the November 2019 Municipal Election.

Motion passed on a 9-0 roll call vote.

C. ASSISTANT MAYOR LAZENBY

1. Letter to the National Institute for Occupational Safety and Health regarding PFAS Health Study for Firefighters

Councilor Roberts moved to send the proposed letter (or a version thereof) requesting a health study for firefighters, seconded by Councilor Pearson.

Assistant Mayor Lazenby explained that the firefighters were removed from the Pease study due to other potential work related exposure but they still need a PFAS study.

Councilor Dwyer stated she likes the letter and feels this is important and feels that this will be a study of causes and not just testing the outcome.

Motion passed on a 9-0 roll call vote.

D. COUNCILOR PEARSON

1. Short Term Rentals

Councilor Pearson requested a report back on Short Term Rentals as she has had several requests from residents for an update on this issue.

Councilor Dwyer stated we will also have the legislation that has been filed as well.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Pearson presented a pamphlet from a recent conference she attended hosted by the NH Women's Foundation which reviewed the status of New Hampshire women in various categories; Health, Safety, Economic, etc. for 2018. She stated that the City of Portsmouth falls within the average range for most categories.

Mayor Blalock stated he has always been proud that Mayor Dondero was the first woman Mayor east of the Mississippi.

City Manager Bohenko stated that the City is well represented with women Department Heads.

XIII. ADJOURNMENT

Assistant Mayor Lazenby moved to adjourn at 8:50 p.m., seconded by Councilor Perkins. Motion passed on a 9-0 roll call vote.

Respectfully submitted:

VALERIE A. FRENCH, CNHMC
DEPUTY CITY CLERK