

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, DECEMBER 17, 2018

PORTSMOUTH, NH
TIME: 6:15 PM

At 6:15 p.m., a Non-Public Session was held Re: RSA 91-A:3 II (e) – Litigation – James G. Boyle as Trustee, et als.

I. CALL TO ORDER

Mayor Blalock called the meeting to order at 7:20 p.m.

II. ROLL CALL

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

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

Mayor Blalock led in the Pledge of Allegiance.

PRESENTATIONS

1. Holiday Music Performed by the Portsmouth High School Band

The Holiday Ensemble performed four selections: Hark the Herald Angels Sing, God Rest Ye Merry Gentlemen, White Christmas and Jingle Bells.

2. McIntyre Project Re: Financial Plan

Deputy City Manager Colbert Puff advised the City Council that there will be a Public Hearing on the McIntyre Project at the meeting of January 7, 2019.

Steve Purdue, Redgate provided an overview of the McIntyre Project Financial Plan. He stated that the public private process, land use agreements and preservation plan have been reviewed with the City Council and now he will speak to the financial plan. He said the process has been centered on the design of the project. Mr. Purdue said the plan will be submitted to the National Park Services and the GSA will initiate the transfer of title. He discussed the ground lease document and that it will be referenced in the National Park Services application that will be going before the Historic District Commission for land use approvals followed by Planning Board and Site Review Technical Advisory Committee approvals next year. Mr. Purdue spoke to the ground lease which would be \$100,000.00 per year for 75 years and a long term lease is critical for debt and equity commitments. He also addressed rental assumptions which would be an average of \$2.974 per month per unit and there are 77 units. He spoke to the parking income is \$200.00 per month and real estate taxes will be approximately \$500,000.00. He further reviewed costs for water and sewer improvements, façade repairs and restoration fees.

Mr. Purdue spoke to the return of equity and stated there is no profit before equity is returned to investors. He stated a reasonable return will be earned by investors commensurate with assumed risk.

V. ACCEPTANCE OF MINUTES – OCTOBER 15, 2018; NOVEMBER 19, 2018 AND DECEMBER 3, 2018

Councilor Pearson moved to accept and approve the minutes of October 15, 2018 City Council meeting. Seconded by Assistant Mayor Lazenby and voted.

Councilor Pearson moved to accept and approve the minutes of November 19, 2018 City Council meeting. Seconded by Assistant Mayor Lazenby and voted.

Councilor Pearson moved to accept and approve the minutes of the December 3, 2018 City Council meeting. Seconded by Assistant Mayor Lazenby and voted.

VI. PUBLIC COMMENT SESSION

James Boyle spoke regarding sitting with some of the City Council to reach a settlement and global resolution to the case. He said that a mediation date is scheduled for January to try and come to a settlement.

Steve Little provided photos of cracked pavement and stated that streets are starting to be degraded and the Gas Companies have not followed the rules for correcting pavement conditions when they have done a project. He said the Public Works Department does not have the equipment to repair cracked pavement for maintenance of the road ways.

Jim Fernald spoke against the proposed sign ordinance. He spoke to political signs requiring that they must be taken down within 90 days. He addressed the content of signs and signs being erected to buildings.

Bill Wagner said he is here to discuss the contracts for the McIntyre project. He said there have not been any work sessions or City Council meetings on the contracts and they are the most important part of the project.

Jeffrey Cooper spoke to short term rentals in the State of NH and stated there are 3,500 people participating in these rentals in the State. He spoke to the value of short term rentals and said it is bringing revenue into the State. He stated that the enforcement is selective and based on personal complaints here in Portsmouth.

Erik Anderson said political signs on private property are of concern and urged the City Council to follow the advice to postpone the sign ordinance indefinitely.

Mark Brighton spoke to the impact on the taxpayer relative to the Boyle case. He stated homeowners would be impacted by \$423.85 based on a \$10,000,000.00 settlement.

Paige Trace spoke on the need to settle the Boyle case. She asked why the hiring of a new attorney. She indicated there are a lot more people that want this case settled.

Esther Kennedy said PSNH, Boyle case, sewer upgrades at Pease, a new garage that cannot get filled and Coakley Landfill are all stories appearing in the newspaper and asked who will pay for all these things and where is the money coming from.

Matt Beebe said that Barbara Jenny has been an advocate of short term rentals and it is important for the City Council to do something. He said the regulations are muddy and not clear.

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

A. Public Hearing – Bond Premium Resolution – Municipal Complex Improvements

SUPPLEMENTAL APPROPRIATION FOR A RESOLUTION APPROPRIATING FROM BOND PREMIUM THE SUM OF ONE MILLION TWO HUNDRED EIGHTY-SIX THOUSAND ONE HUNDRED FOURTEEN DOLLARS AND TWENTY-EIGHT CENTS (\$1,286,114.28) TO BE APPLIED TO MUNICIPAL COMPLEX IMPROVEMENTS

- **PRESENTATION**

There was no presentation on this Bond Premium Resolution.

- **CITY COUNCIL QUESTIONS**

There were no questions by the City Council members.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock read the legal notice and declared the Public Hearing open and called for speakers.

Erik Anderson said he would like a presentation on this matter. He said the process is not well understood. He asked if there are any restricted uses for bond premiums and will the water/sewer rates increase if the bonds are not approved. He stated it would be considerate to reserve some of the funds for the taxes.

City Manager Bohenko said there is a general fund and a water and sewer fund. He stated there is money available through a bond premium and we need to replace the roof, electrical system and make upgrades to the basement for the storage of records. He reported these are funds we are saving from being put into the Capital Improvement Plan. He spoke to water line improvements and sewer fund would be for sewer replacement and it is less money than we have to put in the budget next year.

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

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Becksted asked how much more electrical upgrades need to be made because we already budgeted \$600,000.00 for those upgrades.

Public Works Director Rice spoke to the electrical upgrades and advised it was close to \$2,000,000.00 for the upgrades. He spoke to the slate roof needing repairs and said tiles are coming off and it is time for a full refurbishment. He also addressed the needs of the 1895 building requiring drainage improvements.

Councilor Becksted said an increase in our budget is for paving upgrades. Public Works Director Rice said street paving improvements are needed. Councilor Becksted said he would like to see monies put in place for the budget to save funds for the taxpayers.

City Manager Bohenko said that you could take the money and use for paving but we would need to make the improvements regardless.

Councilor Becksted moved to take \$500,000.00 to fill the need for paving. No second received.

Assistant Mayor Lazenby moved to adopt the Resolution appropriating the sum of One Million Two Hundred Eighty-Six Thousand One Hundred Fourteen Dollars and Twenty Eight Cents (\$1,286,114.28) for the Municipal Completed Improvements. Seconded by Councilor Dwyer.

Councilor Roberts said at some point it becomes we need to start allocating funds to reduce the budget, at some point this becomes micromanaging and going forward you can urge the City Manager to take that into consideration moving forward.

Councilor Dwyer said she agrees with Councilor Roberts in that it would be helpful when we know we have needs and priorities emerge we have a process for long immediate needs for the Capital Improvement Plan. She said we have not looked at this in the CIP for the last 5 years.

City Manager Bohenko said we try to do that and we use to put priority aspects to it and call it out.

Councilor Becksted said we are taking free money and putting into something he would like to hold on to \$500,000.00 and allow staff to start with the remaining \$700,000.00.

City Manager Bohenko said that the Finance Department needs to do this in a timely manner.

Councilor Denton commended Councilor Becksted and he would be more comfortable moving forward with City Manager Bohenko's request and look at doing something different in the future.

Councilor Reynolds said there is a clear need and we should move forward with these expenses.

Councilor Becksted said he would not support this Resolution. He said we should look at giving something to the taxpayers.

On a roll call vote 8-1, motion passed. Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton, Perkins, Raynolds and Mayor Blalock voted in favor. Councilor Becksted voted opposed.

B. Public Hearing – Bond Premium Resolution – Sewer Line Replacement

SUPPLEMENTAL APPROPRIATION FOR A RESOLUTION APPROPRIATING FROM BOND PREMIUM THE SUM OF SEVEN HUNDRED FIVE THOUSAND TWO HUNDRED SEVENTY-SEVEN DOLLARS AND FORTY CENTS (\$705,277.40) TO BE APPLIED TO ANNUAL SEWER LINE REPLACEMENT

- **PRESENTATION**

There was no presentation on this Bond Premium Resolution.

- **CITY COUNCIL QUESTIONS**

There were no questions by the City Council.

City Manager Bohenko explained that this is a sewer project and will have a useful life of more than 20 years. He said this will offset costs for next year.

- **PUBLIC HEARING SPEAKERS**

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

Esther Kennedy said this should evaluate where the bonds should go. She said there is a large sum of money in the sewer fund and we should be bringing that fund down. She asked if we don't use this for a project, can it go back to the general fund to offset taxes.

City Manager Bohenko said the money is for the sewer fund and cannot be used for the general fund or water fund because it is for sewer related items.

Erik Anderson said the bonds are restricted use because the premium came from a sewer project. He would like to know how much is in the sewer fund to reduce costs for future projects.

City Manager Bohenko said we would look at that in the CIP process. He said if you look at the CIP the sewer projects come from the enterprise fund and rates are based on that. He said you cannot take and offset costs for the sewer fund.

Paige Trace said she is happy to hear City Manager Bohenko speak to the sewer enterprise fund. She asked about sewer separation takes precedence or more towards meeting the consent decree. She asked if the City takes the consent decree in effect when funding projects.

City Manager Bohenko said we do take into account the consent decree.

Roy Helse said every year we should set aside to go to the sewer and reduce that fund.

Erik Anderson asked if we did not use funds for this project and held it in abeyance, will the sewer rates increase.

City Manager Bohenko said sewer funds must go back into the sewer funds. He stated if we spend money on sewer line improvements the less money we need to spend at a later date.

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

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Becksted said we are just putting the money into the sewer fund.

City Manager said it is for the sewer line replacement.

Councilor Becksted moved to adopt the Resolution appropriating the sum of Seven Hundred Five Thousand Two Hundred Seventy-Seven Dollars and Forty Cents (\$705,277.40) for the Annual Sewer Line Replacement. Seconded by Councilor Raynolds.

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

C. Public Hearing – Bond Premium Resolution – Water Line Replacement

SUPPLEMENTAL APPROPRIATION FOR A RESOLUTION APPROPRIATING FROM BOND PREMIUM THE SUM OF THREE HUNDRED EIGHTY-TWO THOUSAND SIX HUNDRED EIGHTY-NINE DOLLARS AND FORTY THREE CENTS (\$382,689.43) TO BE APPLIED TO ANNUAL WATER LINE REPLACEMENT

- **PRESENTATION**

There was no presentation on this Bond Premium Resolution.

- **CITY COUNCIL QUESTIONS**

There were no questions by the City Council members.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock read the legal notice and declared the Public Hearing open and called for speakers.

Esther Kennedy asked if it goes back into the drinking water fund. She said our payments have gone up and increased should supplement the fund for water and fund the lines should be already part of that fund then could this money be used for Coakley Landfill.

City Manager Bohenko said we have not raised water rates in the last 7 years with the exception of last year.

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

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

There were no additional Council questions or deliberations.

Councilor Pearson moved to adopt the Resolution appropriating the sum of Three Hundred Eighty-Two Thousand Six Hundred Eighty-Nine Dollars and Forty-Three Cents (\$382,689.43) for the Annual Water Line Replacement. Seconded by Assistant Mayor Lazenby.

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

At 9:00 p.m. Mayor Blalock called a brief recess. At 9:20 p.m., Mayor Blalock called the meeting back to order.

- D. Third and final reading amending Chapter 10 – Zoning Ordinance by deleting the existing Article 12 – Signs, and inserting 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

Assistant Mayor Lazenby moved to table the ordinance indefinitely. Seconded by Councilor Becksted.

Councilor Dwyer said the concept of temporary signs will be gone because it would be tied to content.

City Attorney Sullivan said the idea of political signs are temporary is there are regulations on content but we do not agree with the ACLU. Councilor Dwyer said temporary does not feel it is content neutral. He said we will meet with Mr. Bissonnette and resolve this issue and it may cause for some amendments.

Motion passed.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant – Portsmouth Police Department:
 - Violence Against Women Act Grant - \$30,000.00

Assistant Mayor Lazenby moved to accept and approve the grant to the Portsmouth Police Department, as presented.

IX. CONSENT AGENDA

Councilor Reynolds moved to adopt the Consent Agenda. Seconded by Councilor Dwyer and voted.

- A. Letter from Jeanine Sylvester, Runner’s Alley requesting permission to hold the 22nd Annual Runner’s Alley/Cisco Brewers Memorial 5k on Sunday, May 26, 2019 at 11:00 a.m. (**Anticipation action – move to refer to the City Manager with power**)

- B. Request for License to Install Projecting Sign for Regina Piantedosi owner of Regina Piantedosi for property located at 56 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)***

- C. Request for License to Install Projecting Sign for Tom Holbrook owner of Riverrun Bookstore, Inc. for property located at 32 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 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. Letter from Kaity Stanton, Big Brothers Big Sisters of New Hampshire requesting permission to close Pleasant Street on Saturday, June 15, 2019 from 1:00 p.m. to 4:00 p.m. for the annual Stiletto Sprint (*Sunday, June 16, 2019 Rain Date*) (***Anticipated action – move to refer to the City Manager with power***)

- E. Letter from Jennie Halstead, My Breast Cancer Support requesting permission to hold the 11th Annual Celebrate Pink 5k Walk & Run on Sunday, September 15, 2019 (***Anticipated action – move to refer to the City Manager with power***)

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence

Assistant Mayor Lazenby moved to accept and place on file. Seconded by Councilor Roberts and voted.

- B. Letter from Coco Barton & Gabby Rothstein requesting that the City provide reusable bags to each household with funding from the Public Works Department

Councilor Denton moved to refer to the City Manager for report back. Seconded by Assistant Mayor Lazenby.

City Manager Bonhenko reported that we were in the process of putting something similar to this together.

Councilor Denton said more information will come in January by the legislature.

City Manager Bohenko said he will report back in January.

Motion passed.

XI. REPORTS AND COMMUNICATIONS FOR CITY OFFICIALS

A. CITY MANAGER

1. Request to Establish Work Sessions Re: CIP & Budget

City Manager Bohenko said we have moved up the Capital Improvement Plan for this Thursday. He suggested we have a Work Session on January 14th on the CIP and January 16th on FY20 Budget Guidelines.

Councilor Pearson moved to establish the City Council Work Sessions for Monday, January 14, 2019 regarding the FY20-25 Capital Improvement Plan and Wednesday, January 16, 2019 regarding Budget Work Session. Seconded by Assistant Mayor Lazenby and voted.

2. Comcast Agreement

Deputy City Attorney Woodland spoke to the work conducted by the Cable Commission over the last 2 years on the agreement. She said there are 2 actions being requested, an additional 2 month extension and the second is to set up a presentation and public hearing on January 7th on the proposed agreement the drafting process and many aspects that we can't control. She advised the residents that the draft agreement is already up on the website to review.

Councilor Dwyer suggested holding a presentation on the agreement at one meeting with a public hearing at the following meeting. She said she would like a document that would highlight the changes. Deputy City Attorney Woodland said the summary sheet will be on the website.

Councilor Denton moved to authorize the City Manager to enter into an extension of the current franchise agreement with Comcast for cable television services to February 28, 2019. Seconded by Councilor Pearson.

Councilor Becksted said he is concerned with language for completion of the project. City Manager Bohenko said that this is for language we need to provide and we will still be able to make adjustments.

Discussion followed on the amount of contribution the city received and the total cost paid by the City.

Motion passed.

City Manager Bohenko spoke to the changes of hours for Christmas week. He said we will be taking out an advertisement in the newspaper so the public is advised.

Mayor Blalock said the Wednesday after the holiday City Hall will be open until 6:00 p.m.

B. MAYOR BLALOCK

1. Appointments to be Considered:

- Cyrus Beer appointment to the Historic District Commission as Regular member
- Margot Doering appointment to the Historic District Commission as an Alternate
- Polly Henkel appointment to the Planning Board as an Alternate
- Colby Gamester reappointment to the Planning Board

The City Council considered the appointments and reappointments listed below which will be voted on at the January 7, 2019 City Council meeting.

2. Appointments to be Voted:

- Corey Clark reappointment to the Planning Board as an Alternate
- Dexter Legg reappointment to the Planning Board
- Elizabeth Moreau reappointment to the Planning Board
- Thomas Watson reappointment to the Trustees of Trust Funds

Councilor Dwyer moved to reappoint Corey Clark (Alternate); Dexter Legg and Elizabeth Moreau to the Planning Board until December 31, 2021 and Thomas Watson reappointment to the Trustees of Trust Funds until January 1, 2022.

3. Resignation of Rick Shea from the Historic District Commission

Assistant Mayor Lazenby moved to accept with regret the resignation of Rick Shea from the Historic District Commission.

4. Ethic Committee Drawing by Lot

Mayor Blalock announced the drawing will take place at the January 7, 2019 City Council meeting.

5. Committee to Interview Police Commission Candidates
 - Mayor Jack Blalock, Chairman
 - Councilor Doug Roberts
 - Councilor Nancy Pearson
 - Tom Ferrini
 - John Lyons

Mayor Blalock announced that the above individuals will be serving on the Police Commissioners Review Panel.

Mayor Blalock said we have received the resignation of Arthur Hilson from the Police Commission. He said we will form a committee for the replacement and the committee and will meet on Thursday at 8:00 a.m. and review candidates that have put names in for consideration. He said we need to establish a deadline of Wednesday, December 19, 2018 at noon for fillings.

Mayor Blalock said an organizational meeting will be on Thursday and we hope to have a recommendation to the Council by the second meeting in January.

Councilor Becksted moved to set a deadline of Wednesday, January 2, 2019 at 6:00 p.m. for applicants to file for the Police Commission vacancy.

Mayor Blalock said the meeting will be posted and we would televise the interviews.

Councilor Denton said he would like the City Council to submit questions to be asked by the Committee.

C. COUNCILORS PEARSON & PERKINS

1. Worth Lot Demonstration Project

Councilor Pearson said the Music Hall went into a public private partnership for street upgrades and to look at initiatives whereby the Committee proposed a reimagining of the 3 areas at the Worth Lot and came forward with a vision for helping the public understand what the outcome they want to see. She said we are hoping for a Saturday event that is lively at the Worth lot.

Councilor Perkins moved to request the City Manager pursue a partnership for a demonstration project with The Music Hall for an event activating the Worth Lot in 2019 in accordance with the vision in the Vaughan Worth-Bridge Strategic Revitalization Committee Report. Seconded by Councilor Pearson.

Councilor Becksted asked if there is a financial commitment by the City. City Manager Bohenko said we may need to front some funding but the request would come before the City Council. He said we hope to make some money on the event. He stated any costs would come before the City Council.

Discussion followed regarding the event. Mayor Blalock said he imagines it would be like a mini Market Square Day.

Motion passed.

D. COUNCILOR DENTON

1. Keno Petition

Councilor Denton said he opposes Keno, however he reviewed the process for getting the Keno Question onto the ballot for the Municipal Election. He further stated he would like to see legislation to allow service clubs to be allowed to have keno.

Councilor Dwyer said the Senate has a week before bills are to be submitted.

Councilor Denton said he would raise the issue with Senator Martha Fuller Clark on submitting legislation on this proposal.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

XIII. ADJOURNMENT

At 10:00 p.m., Councilor Becksted moved to adjourn. Seconded by Assistant Mayor Lazenby and voted.



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