

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: TUESDAY, FEBRUARY 19, 2019

PORTSMOUTH, NH  
TIME: 6:30PM

At 6:30 p.m. a Non-Public Session was held regarding Deputy Fire Chief Patrick Howe Working Agreement in Accordance with RSA 91-A:3, II (a).

### **I. CALL TO ORDER**

Mayor Blalock called the meeting to order at 7:05 p.m.

### **II. ROLL CALL**

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

ABSENT: Councilor 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.

### **PRESENTATION**

1. Micro-Transit – Juliet Walker, Planning Director

Planning Director Walker provided an overview of Micro-Transit and spoke to the Request for Qualifications seeking service providers to offer this form of transportation. She reported the service would serve between 10 to 14 passengers and arrange for point to point service. She indicated the service could be through a privately driven company or a public/private partnership. Planning Director Walker stated the service could be for the use of residents and visitors as well as employees parking outside the downtown area which would be transported into the downtown. She indicated this would be a single vehicle and serve as a pilot program.

Councilor Dwyer asked if COAST is interested providing this service. Planning Director Walker said we are trying to see what responses we received from the private sector but COAST sees this as compatible service.

Councilor Roberts asked about a fixed route. Planning Director Walker said we may end up with an on-demand service. Councilor Roberts suggested a service for neighborhoods.

Councilor Reynolds said that the experience of the rider matters when selecting a service provider.

## V. ACCEPTANCE OF MINUTES – FEBRUARY 4, 2019

**Councilor Perkins moved to approve and accept the minutes of the February 4, 2019 City Council meeting. Seconded by Councilor Pearson and voted. Councilor Roberts abstained from the vote due to his absence from the February 4, 2019 meeting.**

## VI. PUBLIC COMMENT SESSION

Nicole LaPierre spoke in support of the Neighborhood Parking Plan and the improvements to employee parking. She stated she would like permits from the downtown to the West End. She spoke to construction/development adding to the parking problems. Ms. LaPierre said this is not the same City of 15 years ago and this will not be the same City in 5 years. She stated this situation requires action.

Roy Helse stated he does not favor Councilor Perkins reasoning for voting for Deputy City Manager Colbert Puff's 5-year Employment Agreement. He said most contracts are for 3-years and that is the length that the Deputy City Manager's contract should have been.

Robin Husslage said the goal is to enable residents to find parking. She stated the width of the streets complicate parking in the neighborhood. She spoke to the impact of development in the City. She spoke to the daily hardships with parking in the neighborhood currently. Ms. Husslage said the proposed program might not be perfect but we need to start somewhere. She urged the City Council to move forward with the parking plan.

Elizabeth Bratter said she has mixed emotions on the Neighborhood Parking Plan. She stated she is excited we are trying to start with a program to address the parking issues in the neighborhood. She indicated the program will allow small business customers to park throughout the day. Ms. Bratter said the best part of the program is it would be evaluated in 6 months and if it doesn't work it goes away.

Dan Umbro spoke opposed to the Neighborhood Parking Plan. He said the problems we are trying to solve may not be as bad as it seems. He stated the perimeters of the program will not solve the parking issues. He said one parking place per business is not enough to support the businesses in the area. Mr. Umbro said the program pits one neighbor against another and the City should allow all residents to park in the spaces under the program.

Paul Mannle spoke in support of the Neighborhood Parking Plan and the downtown Pedestrian Program. He said the programs are good examples of trying something and gathering the data to proceed forward. He said the neighborhood has been working on the program for a year and it is time to move forward. He stated we need to move forward and give support for this tactical urbanism.

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

### A. Public Hearing – Capital Improvement Plan (CIP)

CAPITAL IMPROVEMENT PLAN (CIP) FY 2020-2025

- **PRESENTATION**

Deputy City Manager Colbert Puff said that the vote to adopt the plan would take place at the March 4, 2019 City Council meeting. She spoke to the work session held on January 14, 2019 where presentations were made by various staff. She addressed the process that was held and advised the Council that Planning Board is recommending a 1.6% increase over last year. She indicated all bonding projects would come back before the City Council for a public hearing and approval.

- **CITY COUNCIL QUESTIONS**

Councilor Dwyer asked if the time for amendments would be at the March 4, 2019 City Council meeting. Deputy City Manager Colbert Puff said that is correct. She said she would be suggesting that some items be funded through the Undesignated Fund Balance. She said she would like to know which items would be appropriate to come under Undesignated Fund Balance.

Councilor Denton said with elementary school upgrades, has the department located a dishwasher for washing the food trays and if other recycling methods have been explored. He spoke to the Hodgdon Brook and North Mill Pond bike trail. He would like a study of Hodgdon Brook in 2025 and an estimate of costs for daylighting the North Mill Pond bike trail.

Assistant Mayor Lazenby would like to know the cost to address the Elwyn Park Drainage issues on the north side of Taft Road.

Councilor Perkins would like to move the Islington Street improvements up from 2025 and update the amount for road construction at Pease.

Mayor Blalock asked the City Council to submit questions regarding the CIP to Deputy City Manager Colbert Puff prior to the March 4, 2019 meeting.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock opened the public hearing and called for speakers. With no speakers, Mayor Blalock declared the public hearing closed.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

There were no additional Council questions or deliberations on the CIP.

**B. Public Hearing – Zoning Ordinance – Accessory Dwelling Units and Garden Cottages**

- **PRESENTATION**

Planning Director Walker provided an in-depth review of the existing ordinance and proposed amendments. She outlined the items she would be covering:

- Clarifications: zoning compliance, standards for accessory buildings and structures, owner-occupancy
- Utilities and services: common metering of public utilities, compliance with State septic system requirements
- Design standards
- Planning Board findings
- Certificate to use

She spoke to provisions for design standards and clarifications on how the Planning Department administers the Certificate of Use. She stated a Certificate of Use issued by the Planning Department is required to verify compliance with the standards of this Section 10.814.80 and 10.815.60, including the owner-occupancy and principal residency requirements. Planning Director Walker stated when the property is owned by one or more living trusts, one of the dwelling units shall be the principal place of residence of the beneficiary(ies) of the trust(s). She indicated the certificate shall be renewed annually upon submission of such documentation as the Planning Department may require to verify compliance. She addressed utilities and services for proposed 10.814.34-35 and 10.815.35-36:

- Electric, gas, water and sewer utilities for the accessory dwelling unit shall be on the same meters as the principal dwelling unit and shall not be billed separately from the principal dwelling unit.
- Where municipal sewer service is not provided, the septic system shall meet NH Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.

Planning Director Walker further went on to speak to design standards for attached and detached ADU's.

#### • CITY COUNCIL QUESTIONS

Councilor Roberts spoke regarding the utility requirements and asked why they are treated different from a duplex. Planning Director Walker discussed the need for the same meters for electric, gas, water and sewer utilities. She stated that this all comes from the state law. She said the provisions are easier and makes the requirements clear. Councilor Roberts asked about the obstacles to adding an ADU. Planning Director Walker said it is expensive to do and spoke to the building code requirements. She indicated there is a steady stream of people looking to do ADU's.

Councilor Reynolds said he shares the concerns on shared utilities. He asked if we have done research and reviewed the requirements with active markets. He indicated home owners could have a small rental property or a unit for family and asked why you would not want a separate meter. Planning Director Walker said that this is not different from what we currently have as language in the ordinance.

Mayor Blalock said we are not changing anything. He said we should have a report back on this type of questions.

#### • PUBLIC HEARING SPEAKERS

Mayor Blalock declared the public hearing open and called for speakers.

Elizabeth Bratter said the reason for making the unit share the same meters is for piping. She stated it is a requirement by the utilities. She stated that ADU's provide for more housing in the City and make it available for families or low income residents.

Mark Herrholz spoke concern with separating utilities. He said if there was a fire or other problem you would need to shut down the utilities in both residents which requires more time.

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

Councilor Dwyer asked Councilor Perkins if the utility issue had been a problem or questioned in deliberations by the Planning Board. Councilor Perkins said it was not an issue.

Councilor Reynolds said he would like to consult with the gas and electric companies on the utility requirements they have.

**Councilor Roberts moved to pass second reading and schedule third and final reading for the March 4, 2019 City Council meeting to amend the Zoning Ordinance by deleting existing Section 10.814 – Accessory Dwelling Units and 10.815 – Garden Cottages and inserting in their place the new Sections 10.814 and 10.815 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance:**

**Section 10.814 – Accessory Dwelling Units and 10.815 – Garden Cottages” dated January 29, 2019 and amending related terms in Article 15 – Definitions, Section 10.1530 – Terms of General Applicability. Seconded by Assistant Mayor Lazenby and voted.**

- C. Third and Final Reading of Ordinance amending Chapter 10, Article 4, Section 10.421.10 – DISTRICT LOCATION AND BOUNDARIES of the Zoning Ordinance of the City of Portsmouth and the City of Portsmouth Zoning Map be amended by rezoning the property located at 290 Gosling Road at Assessors Tax Map 213, Lot 1 from Waterfront Industrial (WI) to Officer Research (OR) District

**Councilor Reynolds moved to pass third and final reading on request of 290 Gosling Road, LLC, the property with the address of 290 Gosling Road (Map 213, Lot 1) be re-zoned from Waterfront Industrial (WI) to Officer Research (OR). Seconded by Councilor Dwyer and voted.**

## **VIII. APPROVAL OF GRANTS/DONATIONS**

*(There are no items under this section of the agenda)*

## **IX. CONSENT AGENDA**

*(There are no items under this section of the agenda)*

## **X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

### **A. Email Correspondence**

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

- B. Letter from R. Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, PA regarding 15 Middle Street, Tax Map 126, Lot 12 (Former Salvation Army Building) request of James McSharry, Owner for Zoning Change from CIVIC District to Character District 4 (CD4)

**Councilor Raynolds moved to refer to the Planning Board for a report back. Seconded by Assistant Mayor Lazenby and voted.**

## **XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

### **A. CITY MANAGER**

#### **1. Islington Creek Neighborhood Parking Program Re: Pilot**

Deputy City Manager Colbert Puff stated the Council voted to table the proposed Neighborhood Parking Program (NPP) Pilot at the January 22, 2019 meeting to allow additional review by residents and the Council prior to voting on the action. She indicated that the Parking Division Staff has prepared a list of potential modifications to the proposed pilot. She stated if the Council wants to proceed with the amended NPP Pilot, a motion should be made to forward the amended plan to the Parking and Traffic Safety Committee for consideration and a vote. She spoke to the need to make a motion on each modification, or on all if the Council wishes to incorporate those as part of the Pilot. Deputy City Manager Colbert Puff said once the Parking and Traffic Safety Committee minutes have been approved by the Council, the pilot program will go into effect.

City Attorney Sullivan explained the process of when the City Council accepts the action sheet from Parking and Traffic Safety Committee and the NPP Pilot is part of the actions taken for approval then by simply approving the action sheet the Council will have approved the NPP Pilot.

Councilor Perkins asked who would verify the 75% of signatures required to institute the program. Deputy City Manager Colbert Puff said staff would review the signatures.

**Councilor Roberts moved to forward amended Neighborhood Parking Program (NPP) Pilot to the Parking and Traffic Safety Committee for consideration and a vote. Seconded by Councilor Denton.**

**Assistant Mayor Lazenby moved to add amendments/modifications #1 through #4.**

- 1. Change to a 6-month pilot (as opposed to a year) with an assessment at 6 months**
- 2. Allow businesses to receive same number of permits as single households.**
- 3. Allow all residents to be eligible for transferable Guest Pass (even if they don't participate in the program or are 'netted-out' by available off-street parking)**
- 4. Delete the 'Net of Off-Street Parking' stipulation**

**Seconded by Councilor Pearson.**

Councilor Dwyer asked what modification #2 would mean. Deputy City Manager Colbert Puff said households are eligible to receive three permits and businesses as well. Councilor Dwyer said there are large businesses in the area that have had parking agreements and asked if data holds, could businesses be able to receive additional permits.

Councilor Raynolds said modification #3, "all residents" phrase should be "all residents in the City."

Councilor Roberts said Councilor Raynolds suggestion would defeat the purpose. He said you can't let every resident park in the area.

Councilor Perkins said the program is detrimental and she does not support it.

Councilor Denton said he would like to eliminate modification #4.

**Assistant Mayor Lazenby made a clarification to amendment of modifications #2 and #3 to add the word "neighborhood" before businesses in #2 and residents in #3. Councilor Pearson agreed as the second to the motion.**

Councilor Raynolds said he is opposed the amendments recommended by Assistant Mayor Lazenby. He said opening it to all residents would not undermine the effectiveness of the program.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby

Mayor Blalock said he does not support the program as proposed. He said he would support a NPP as long as it included employees in the downtown. He further stated he does not support moving one group of cars from one neighborhood to another neighborhood. He also feels it will be difficult to enforce, and their needs to be a solution to where displace cars are going and we need a comprehensive plan.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

Councilor Dwyer said she supports the pilot and the neighborhood has handled this well. She said she believes the employees have a partnership role with parking and that it is a shared role with employers.

Councilor Pearson said residents have been asking for this and the neighborhoods have said that the City has been built out for development and not residents. She further stated we need the data on how many people this represents. Councilor Pearson said she would support the pilot.

**Councilor Perkins moved to amend the amendment by the addition of modification #5 – Establish that neighborhoods will have 45 days from City Council approval to collect and submit petition to Parking Division. Seconded by Councilor Denton. On a voice vote 6-2, motion passed. Councilors Roberts, Pearson, Dwyer, Denton, Perkins and Raynolds voted in favor. Assistant Mayor Lazenby and Mayor Blalock voted opposed.**

Assistant Mayor Lazenby said that this may not be perfect but there is something to be learned from it.

Councilor Reynolds said he voted no to the group of amendments and he agrees that we won't know until we try the pilot.

**On a roll call 6-2, voted to add amendments/modifications #1 through #5 as follows:**

- 1. Change to a 6-month pilot (as opposed to a year) with an assessment at 6 months**
- 2. Allow neighborhood businesses to receive same number of permits as single households.**
- 3. Allow all neighborhood residents to be eligible for transferable Guest Pass (even if they don't participate in the program or are 'netted-out' by available off-street parking)**
- 4. Delete the 'Net of Off-Street Parking' stipulation**
- 5. Establish that neighborhoods will have 45 days from City Council approval to collect and submit petition to Parking Division**

**Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton and Perkins voted in favor. Councilor Reynolds and Mayor Blalock voted opposed.**

**On a roll call 6-2, voted to pass main motion, as amended. Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton and Reynolds voted in favor. Councilor Perkins and Mayor Blalock voted opposed.**

**2. Comcast Franchise Renewal Agreement**

Deputy City Manager Colbert Puff said the Agreement is being brought forward for approval. She reported that this is a five (5) year term of March 1, 2019 through February 29, 2024. She also stated the agreement is without endorsement due to Comcast's continuing refusal to add certain provisions requested by the Commission. She said the Commission acknowledges that further negotiations are unlikely to be fruitful and thus this Agreement is being brought forward for action. She also indicated this proposed Agreement does not give Comcast any exclusive rights to serve Portsmouth.

**Councilor Perkins moved to authorize the City Manager to execute the Cable Television Franchise Renewal Agreement with Comcast covering the five (5) year term of March 1, 2019 through February 29, 2024, as presented with the Report of the Cable Television and Communications Commission. Seconded by Councilor Pearson and voted.**

**3. Renewal of Middle Street Baptist Church Parking Contract**

Deputy City Manager Colbert Puff reported we lease seventeen (17) spaces for the purposes of allowing certain Library staff the use of said space during business hours. She indicated the annual fee is \$1,000.00 and the term for this agreement is April 1, 2019 – March 31, 2020.

**Councilor Perkins moved to approve the aforementioned Parking Lot Usage/Maintenance Agreement and further authorize the City Manager to execute the Usage/Maintenance Agreement for this request. Seconded by Assistant Mayor Lazenby.**

Councilor Pearson said that this is a wonderful example of an employer providing parking for their employees.



**Motion passed.**

City Manager's Informational Items

1. *Work Session Re: Parking Principles Review and Discussion*

Deputy City Manager Colbert Puff announced the work session will be held on Monday, March 25, 2019 at 6:30 p.m. in the Levenson Room.

2. *Great American Food Truck Race*

Deputy City Manager Colbert Puff advised the City Council that Tyler Florence and Food Network will be filming in the City the afternoon of February 25<sup>th</sup> and 26<sup>th</sup> and that we are coordinating their activities.

3. *McIntyre Project*

Deputy City Manager Colbert Puff reminded the City Council of the public meeting with Redgate/Kane team on Tuesday, March 5, 2019, starting at 6:30 p.m. in the City Council Chambers.

4. *Coalition Communities*

Deputy City Manager Colbert Puff advised the City Council that the Coalition Communities have reconvened due to HB 709, an education funding bill that would require excess SWEPT to be returned to the State. She reported that donor towns has been removed from the bill however, it could be reinserted into another bill so we will proceed forward reconvening the Coalition Communities.

Assistant Mayor Lazenby said on Information #1 and #3 he would like to see a press release speaking to what will be taking place at the sessions.

Mayor Blalock said prior to the work session on Parking Principles we need to formulate an idea of goals. Councilor Dwyer stated that staff is working on preparing draft updates to the Downtown Parking Principles.

**B. MAYOR BLALOCK**

1. Appointment to be Considered:
  - Jessica Blasko to the Conservation Commission as an Alternate

The City Council considered the appointment of Jessica Blasko as an Alternate to the Conservation Commission with action to take place at the March 4, 2019 City Council meeting.

### **C. COUNCILOR PEARSON AND COUNCILOR RAYNOLDS**

#### 1. Four Weekends Experiment (July 2019) with Downtown Pedestrian Zone

Councilor Pearson said they would like a report back on the feasibility of a proposal for a pilot with a downtown pedestrian zone during weekends in July. She stated this is not a new idea and has been discussed for a long time. She indicated they would like feed-back on this proposal and that Market Square is ideal where it is our destination point.

Councilor Raynolds said they're not proposing tonight to vote on a plan but to have research done with a report back from staff on what it would take to institute the plan for this. He stated the timing in July is due to the authority being granted for the Summer in the Streets program. He would like to see a report back for the April 1, 2019 City Council meeting.

Councilor Dwyer said a report back will provide different configurations and that we might want to begin both days at Noon.

Councilor Roberts would like an idea of the use of the traffic simulation and would it be appropriate. Also it would need to be determined that it does not have significant additional costs associated with its use.

Councilors Pearson and Councilor Raynolds requested a report back at the first meeting in April on the feasibility of a proposal for a pilot with a downtown pedestrian zone during weekends in July.

### **D. COUNCILOR DENTON**

#### 1. Service-Connected Total Disability Tax Credit Resolution

**Councilor Denton moved to hold a public hearing regarding expanding the Tax Credit for Service-Connected Total Disability from \$2,000.00 up to \$4,000.00 under RSA 72:35 pursuant to RSA 72:27-a. Seconded by Assistant Mayor Lazenby.**

Councilor Denton said he would rely on the Assessor's office for when the public hearing should be held on this matter. He reported it would have an impact of \$92,000.00 for 46 veterans in the City. He provided a draft Resolution in this evening's Council packet for review and reference as well as the Resolution that we passed for this credit from 2004. He said that the credits will be given in one hundred dollar increments until it reaches \$4,000.00.

**Motion passed.**

## **XII. MISCELLANEOUS/UNFINISHED BUSINESS**

### A. Legislative Subcommittee Report

Mayor Blalock, Assistant Mayor Lazenby, Councilor Dwyer and Councilor Denton  
Approval of Legislative Principle on Education Funding

Mayor Blalock said the Subcommittee narrowed the discussion on what is important to the Council and focused on bills that will cost us more money or bills that allow us to bring money into the City.

**Assistant Mayor Lazenby moved to adopt a Legislative Principle that we support legislation that provides education funding based on equitable and sustainable framework. Seconded by Councilor Roberts.**

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

**Councilor Dwyer moved to amend the principle that we would oppose a return to the donor town concept. Seconded by Mayor Blalock.**

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

Assistant Mayor Lazenby said he does not support the amendment with the reference of donor towns because that has in the past been a term that provides a negative impact with some communities and the Legislature.

Councilor Dwyer said we do not want to have the donor town concept enacted again. She said she feels very strongly about her amendment and the language.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock said he supports Councilor Dwyer's amendment and comments. He said the principles are for our staff and it is important to have the language donor towns as part of the motion. He stated that the State of New Hampshire needs to fund education properly and taking funds from other communities is not right.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

Councilor Denton said there is no tax base in New Hampshire and other areas in the State need funding and he would be voting against the motion.

Councilor Dwyer said the reason there is no dedicated funding for education is because the Legislature has not passed any. She said you need to think of the individual taxpayer that is being penalized.

Councilor Perkins said she would help to find what is equitable for educational funding. She said she wants to make sure we are open to funding less fortunate.

**On a roll call 5-3, voted to pass amendment. Councilors Pearson, Dwyer, Perkins, Raynolds and Mayor Blalock voted in favor. Assistant Mayor Lazenby, Councilors Roberts and Denton voted opposed.**

Councilor Dwyer reported that the hotel tax bill passed out of Committee on a 12-6 vote. She stated that it would be enabling legislation and it needs to go before the Senate next.

Councilor Denton announced PS21 is holding an event at the Library tomorrow evening and he will be speaking regarding what the City doing is related to renewable energy.

### **XIII. ADJOURNMENT**

**At 9:25 p.m., Councilor Denton moved to adjourn. Seconded by Councilor Raynolds and voted.**

A handwritten signature in black ink that reads "Kelli L. Barnaby". The signature is written in a cursive, flowing style.

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