

IN COUNCIL REGULAR MEETING VOL. 75 PAGE 111
MAY 19, 2014

Roll Call: Mayor Jalbert called the meeting to order at 7:00 P.M. Councilor Linscott arrived immediately after roll call and Councilor Blake arrived at 7:15 P.M.

A. Acceptance of Minutes

Motion to accept the minutes from the April 23rd City Council Meeting was made by Councilor Pock. Councilor Beecher seconded. Councilor Cohen moved to amend the minutes to add the following underlined addition; “Councilor Cohen moved to go into executive session, pursuant to 1 M.R.S.A. §405 (6)(e), discussion with Corporation Counsel regarding city-owned property”. Councilor Linscott seconded. The amendment passed 6-0 (Councilor Blake absent). The motion passed as amended 6-0 (Councilor Blake absent).

B. Communications from City Manager

The Manager addressed the following items;

- The Transit Hub is now open
- Memorial Day Parade will step off on Monday at 10:30 A.M.

C. Petitions and Communications

Fire Department Awards
Department and Committee Reports

D. Appointment Calendar

1. ORDER #124-12/13 – Board of Assessment Review, District Two (Smith), for a term which expires on 03/16/16. Postponed since 04/01/13. Passage requires majority vote.

There was no public discussion.

Councilor Smith moved to postpone. Councilor Blake seconded. The postponement passed 7-0.

2. ORDER #138-13/14 – Planning Board, At Large (Beecher), appointing Stefanie Veneziano to fill an unexpired term to expire on 04/01/16. Passage requires majority vote.

There was no public discussion.

Councilor Beecher moved to appoint Stefanie Veneziano. Councilor Blake seconded. The order passed 7-0.

3. ORDER #139-13/14 – Energy & Recycling Committee – Associate, At Large (Beecher), to fill a term which expires on 05/05/17. Postponed on 05/05/14. Passage requires majority vote.

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There was no public discussion.

Councilor Beecher moved to postpone. Councilor Pock seconded. The postponement passed 7-0.

4. ORDER #140-13/14 – Energy & Recycling Committee – Associate, At Large (Blake), to fill a term which expires on 05/05/17. Postponed on 05/05/14. Passage requires majority vote.

There was no public discussion. Councilor Blake moved to waive Standing Rule 3(e) to have an order to appoint David Domingos added to the agenda. Councilor Beecher seconded. The motion passed 7-0.

Councilor Blake moved to appoint David Domingos to the Energy & Recycling Associate seat. Councilor Smith seconded. The order passed 7-0.

5. ORDER #142-13/14 – Energy & Recycling Committee, At Large (Blake), appointing Jessica Williams to fill a term which expires on 05/05/17. Postponed on 05/05/14. Passage requires majority vote.

There was no public discussion.

Councilor Blake moved to appoint Jessica Williams to the Energy & Recycling Committee. Councilor Cohen seconded. The order passed 7-0.

E. Consent Calendar

F. Citizen Discussion (First Part)

Albert DiMillo, 64 Colchester Drive
Russ Lunt, Brigham Street
Catherine Chapman, Beaufort Street
Charles Higgins, Ledge Road
Eben Rose, Buchanan Street
Jeff Selser, 17 Summit Street
Rosemarie De Angelis, Pleasantdale

G. Public Hearings and Action

6. ORDINANCE #12-13/14 - Amending Chapter 21, "Police," Establishing a Sex Offender Residency Restriction Ordinance. Passed first reading on 05/05/14. ROLL CALL VOTE. Passage requires majority vote.

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Councilor Beecher moved to have the ordinance read by title only. Councilor Pock seconded. The motion passed 7-0. The following people addressed this item;

Russ Lunt, Brigham Street
Victoria Morales-98 Thirlmere Avenue

Councilor Blake moved for final passage of Ordinance #12-13/14. Councilor Beecher seconded. The ordinance passed roll call vote by a vote of 7-0.

7. ORDINANCE #13-13/14 – Amending Chapter 27, “Zoning,” creating a Thornton Heights Commercial (THC) zoning district. Passed first reading on 05/05/14. ROLL CALL VOTE. Passage requires five affirmative votes.

Councilor Cohen moved to have the ordinance read by title only. Councilor Pock seconded. The motion passed 7-0. The following people addressed this item;

Karen Silverman, Churchill Road
John McCall, Karynel Drive
Nicholas Fogg, 9 Gerry Ave.
Sarah Sutton, Westbrook Street
Russ Lunt, Brigham Street
Catherine Chapman, Beaufort Street
Natalie West, Deake Street
Eileen Arsenault, Barnstable Road
Joan Calwell, Osborne Ave.
Rosemarie De Angelis, Pleasantdale
Dara Saffer, Pond Road
Eric Hamlin, Thirlmere Ave.
Victoria Morales, Thirlmere Ave.
Ellen Fountain, Ginn Real Estate
Jared Saks, Spiritual Leader, Bet Ha’am

Councilor Beecher moved for final passage of Ordinance #13-13/14. Councilor Cohen seconded. Needing five affirmative votes the ordinance failed roll call vote by a vote of 4-3 (Pock, Smith, Blake).

8. ORDINANCE #14-13/14 – Amending Chapter 27, “Zoning,” creating a Main Street Community Commercial (MSCC) zoning district. Passed first reading on 05/05/14. ROLL CALL VOTE. Passage requires five affirmative votes.

Councilor Smith moved to have the ordinance read by title only. Councilor Pock seconded. The motion passed 6-0 (Blake out of room). The following people addressed this item;

Lisa Munderback, Coach Road
Sharon Newman, Fort Road
Rosemarie De Angelis, Pleasantdale

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Tim Willett, High Street
Gloria Carter, Aspen Ave.

Councilor Cohen moved for final passage of Ordinance #14-13/14. Councilor Linscott seconded. The ordinance passed roll call vote by a vote of 7-0.

9. ORDINANCE #15-13/14 – Amending Chapter 2, “Administration and Legislation,” and Chapter 13, “Libraries,” regarding district representation for boards and committees. Passed first reading on 05/05/14. ROLL CALL VOTE. Passage requires majority vote.

Councilor Beecher moved to have the ordinance read by title only. Councilor Pock seconded. The motion passed 7-0. The following person addressed this item;

Albert DiMillo, 64 Colchester Drive

Councilor Blake moved for final passage of Ordinance #15-13/14. Councilor Smith seconded. The ordinance passed roll call vote by a vote of 7-0.

10. ORDINANCE #16-13/14 – Amending Chapter 19, “Personnel Rules and Regulations,” regarding district representation on the Civil Service Commission. First reading. Passed first reading on 05/05/14. ROLL CALL VOTE. Passage requires majority vote.

There was no public discussion.

Councilor Cohen moved for final passage of Ordinance #16-13/14. Councilor Linscott seconded. The ordinance passed roll call vote by a vote of 7-0.

H. Action on Old and New Business

11. ORDER #149-13/14 - Authorizing the City Manager to execute an agreement between Ron Letourneau and the City relating to a building that encroaches into Marriner Street (Map 9, Lot 81). Passage requires majority vote.

The following person addressed this item;

Ron Letourneau, Marriner St.

Councilor Linscott disclosed that she represented the seller on this property. The Council voted 6-0 (Linscott recused) to allow Councilor Linscott to participate in this vote. Councilor Beecher moved for passage. Councilor Blake seconded. The order passed 7-0.

The Mayor requested to take item #35 out of order to relieve Corporation Counsel from the remainder of the meeting. There was no objection. See item #35 for the details of passage.

12. RESOLVE #6-13/14 - That \$17,357,477 be authorized to be expended for Regular Instruction. Passage requires majority vote.

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Councilor Smith moved to group items #12 through #22 as one vote. Councilor Beecher seconded. Motion passed 6-0 (Councilor Blake had to leave). The following people addressed this item;

Albert DiMillo, 64 Colchester Drive
Karen Callaghan, Alfred Street

Councilor Beecher moved for passage of items #12 through #22. Councilor Cohen seconded. The Resolves passed 6-0 (Blake absent).

13. RESOLVE #7-13/14 - That \$8,245,979 be authorized to be expended for Special Education. Passage requires majority vote.

Passed 6-0. See Item #12 for motions.
14. RESOLVE #8-13/14 - That \$313,399 be authorized to be expended for Career and Technical Education. Passage requires majority vote.

Passed 6-0. See Item #12 for motions.
15. RESOLVE #9-13/14 - That \$801,581 be authorized to be expended for Other Instruction. Passage requires majority vote.

Passed 6-0. See Item #12 for motions.
16. RESOLVE #10-13/14 - That \$3,577,460 be authorized to be expended for Student and Staff Support. Passage requires majority vote.

Passed 6-0. See Item #12 for motions.
17. RESOLVE #11-13/14 - That \$1,285,643 be authorized to be expended for System Administration. Passage requires majority vote.

Passed 6-0. See Item #12 for motions.
18. RESOLVE #12-13/14 - That \$2,258,109 be authorized to be expended for School Administration. Passage requires majority vote.

Passed 6-0. See Item #12 for motions.
19. RESOLVE #13-13/14 - That \$1,689,044 be authorized to be expended for Transportation and Buses. Passage requires majority vote.

Passed 6-0. See Item #12 for motions.

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20. RESOLVE #14-13/14 - That \$3,942,077 be authorized to be expended for Facilities Maintenance. Passage requires majority vote.

Passed 6-0. See Item #12 for motions.

21. RESOLVE #15-13/14 - That \$4,906,153 authorized to be expended for Debt Service and Other Commitments. Passage requires majority vote.

Passed 6-0. See Item #12 for motions.

22. RESOLVE #16-13/14 - That \$407,874 be authorized to be expended for All Other Expenditures. Passage requires majority vote.

Passed 6-0. See Item #12 for motions.

23. RESOLVE #17-13/14 - That \$33,920,223 be appropriated for the total cost of funding public education from pre-kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and that \$28,644,638 be raised as the City's contribution to the total cost of funding public education from pre-kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688. Passage requires majority vote.

Explanation: The City's contribution to the total cost of funding public education from pre-kindergarten to grade 12 as described in the Essential Programs and Services Funding Act is the amount of money determined by state law to be the minimum amount that the municipality must raise in order to receive the full amount of State dollars.

There was no public discussion.

Councilor Smith moved for passage of resolve #17. Councilor Cohen seconded. The resolve passed 6-0 (Blake absent).

24. RESOLVE #18-13/14 - That \$4,172,291 be raised and appropriated for the annual payments on debt service previously approved by the voters for non-State-funded school construction projects and non-State-funded portions of school construction projects in addition to the funds appropriated as the local share of the City's contribution to the total cost of funding public education from pre-kindergarten to grade 12. Passage requires majority vote.

Explanation: Non-State-funded debt service is the amount of money needed for the annual payments on the City's long-term debt for major school construction projects that are not approved for state subsidy. The bonding of this long-term debt was previously approved by the voters of the City as follows:

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- *SPHS Auditorium/Cafeteria Construction, approved by voters on November 8, 1994.*
- *Elementary Schools Construction and Renovation, approved by voters on November 6, 2001.*
- *South Portland High School Addition and Renovation, approved by voters on November 2, 2010.*

There was no public discussion.

Councilor Cohen moved for passage of resolve #18. Councilor Pock seconded. The resolve passed 6-0 (Blake absent).

25. RESOLVE #19-13/14 - That \$5,158,088 be raised and appropriated in additional local funds, which exceed the State's Essential Programs and Services Allocation model by \$4,405,870 as required to fund the budget recommended by the Board of Education. Passage requires majority vote.

The Board of Education recommends \$5,158,088 for additional local funds and gives the following reasons for exceeding the State's Essential Programs and Services funding model by \$4,405,870.

- *Pension Obligation Debt Service, approved by voters November 4, 2003*
- *Co-curricular/athletic costs not recognized by EPS*
- *Maintaining/Staffing two small Middle Schools rather than one*
- *Staffing for Nursing Services greater than acknowledged by EPS*
- *Maintaining/Staffing five small Elementary Schools rather than four*
- *Class Size Targets less than State standard*
- *Purchase of new 88 passenger school bus*
- *Capital Improvement Projects for Mahoney, Memorial and SPHS approved by voters on June 9, 2009*

Explanation: The additional local funds are those locally raised funds over and above the municipality's local contribution to the total cost of funding public education from pre-kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and local amounts raised for the annual payment on non-State funded debt service that will help achieve the school department budget for educational programs.

There was no public discussion.

Councilor Beecher moved for passage of resolve #19. Councilor Cohen seconded. The resolve passed 6-0 (Blake absent).

26. RESOLVE #20-13/14 - That the Board of Education be authorized to expend \$44,784,796 for the fiscal year beginning July 1, 2014 and ending June 30, 2015 from the municipality's

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contribution to the total cost of funding public education from pre-kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-State funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition receipts, state subsidy and other receipts for the support of schools. Passage requires majority vote.

There was no public discussion.

Councilor Pock moved for passage of resolve #20. Councilor Cohen seconded. The resolve passed 6-0 (Blake absent).

27. RESOLVE #21-13/14 - That the City of South Portland will appropriate \$20,000 for Adult Education and raise \$20,000 as the local share; with authorization to expend any additional, incidental, or miscellaneous receipts in the interest and for the well-being of the adult education program. Passage requires majority vote.

There was no public discussion.

Councilor Cohen moved to group items #27 through #29 as one vote. Councilor Beecher seconded. Motion passed 6-0 (Blake absent). The Clerk read through the three resolves.

Councilor Beecher moved for passage of the three resolves. Councilor Cohen seconded. The resolves passed 6-0 (Blake absent).

28. RESOLVE #22-13/14 - That the City of South Portland will raise and appropriate \$400,000 in additional local dollars in support of the food service program. Passage requires majority vote.

Passed 6-0. See Item #27 for motions.

29. RESOLVE #23-13/14 - That the Board of Education be authorized to expend such other sums as may be received from state and federal grants or programs or other sources during the fiscal year for school and/or adult education purposes provided that such grants, programs or other sources do not require the expenditure of other funds not previously appropriated. Passage requires majority vote.

Passed 6-0. See Item #27 for motions.

30. PROCLAMATION #5-13/14 – Regarding Memorial Day, and directing that flags be placed on the graves of veterans. Passage requires majority vote.

There was no public discussion.

Councilor Cohen moved for passage. Councilor Pock seconded. The proclamation passed 6-0 (Blake absent).

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31. ORDER #150-13/14 – Amendment of the Schedule of License, Permit, Inspection and Application Fees. Passage requires majority vote.

There was no public discussion.

Councilor Beecher moved for passage. Councilor Cohen seconded. Councilor Beecher moved to amend the date on the Schedule from 05/05/14 to 05/19/14. Councilor Smith seconded. The amendment passed 6-0 (Blake absent). The order was passed as amended 6-0 (Blake absent).

32. PROCLAMATION #6-13/14 – Proclaiming the week of May 18, 2014 as Arbor Week in the City of South Portland. Passage requires majority vote.

The following person addressed this item;

Russ Lunt, Brigham Street

Councilor Cohen moved for passage. Councilor Smith seconded. The proclamation passed 6-0 (Blake absent).

33. ORDER #151-13/14 - Setting the time for opening the polls for the June 10, 2014 Primary Election and the South Portland School Budget Referendum. Passage requires majority vote.

There was no public discussion.

Councilor Beecher moved for passage. Councilor Cohen seconded. The order passed 6-0 (Blake absent).

34. ORDER #152-13/14 – Accepting \$25,065 under the Federal Asset Forfeiture Program to be used by the Police Department. Passage requires majority vote.

There was no public discussion.

Councilor Linscott moved for passage. Councilor Pock seconded. The order passed 6-0 (Blake absent).

35. ORDER #153-13/14 – Authorizing the City Manager to execute a license and indemnification agreement between Long Creek Watershed Management District and the City to allow LCWMD to install and maintain stormwater best management practice improvements in the Maine Mall Road and Gorham Road rights-of-way. Passage requires majority vote.

This item was taken out of order immediately after item #11. There was no public discussion. Mayor Jalbert disclosed that, while he felt good about acting on this item, there

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could be a perceived conflict for him as Chair of the Long Creek Watershed Management District. No one on the Council indicated that there was a conflict of interest.

Councilor Beecher moved for passage. Councilor Linscott seconded. The order passed 7-0.

I. Citizen Discussion (Second Part)

J. Councilor's Round Robin

Councilor Pock looks forward to marching in the Memorial Day Parade.

Councilor Smith wished everyone a happy Memorial Day and thanked those who have served. She also extended best wishes to those graduating.

Councilor Linscott extended the same greetings.

Councilor Cohen also said congratulations to grads.

Councilor Beecher made similar remarks and sent the reminder, "don't drink and drive!"

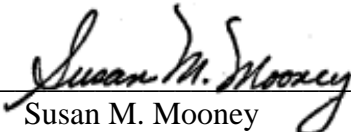
Councilor Jalbert said it was an honor to serve. He looks forward to marching in the parade. The weather calls for a sunny day. He commented about executive sessions and said he feels practices need to be tweaked in ensure decisions are all made in public.

K. Executive Session

Councilor Beecher moved to adjourn at 11:20 P.M. Councilor Smith seconded. The motion passed 6-0 (Blake absent).

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ATTEST



Susan M. Mooney