

The Claremont City Council held a meeting on Wednesday, August 9, 2006, in the Council Chambers of City Hall.

Members of the Council present were:

Michael Prozzo, Jr.
Deborah Cutts (Late)
Heather Bopp
Christopher Irish
Mayor Scott Pope
Andrew Austin
William Regan, III
Ralph Swift
James Neilsen, IV

Also present were:

Guy Santagate, City Manager
Jane Taylor, City Solicitor

The meeting was called to order by Mayor Pope at 6:30 p.m.

MAYOR'S NOTES

Mayor Pope noted a few good things: Boxer Rich Gingras won a boxing championship and he recognized the Claremont Boxing Club; the second mill building has been sold to private investors; the GSSA (Granite State Swimming Association) Meet was held on August 5th and 6th and was a great event; there was an official ground breaking on August 1st for the Charles Puksta Memorial Library at the NH Community Technical College (NHCTC); Governor Lynch will be at the NHCTC and the Farmer's Market tomorrow; there will be an airport hangar ribbon cutting on August 22nd; the Bourdon Center will have a barbecue on August 24th; the Museum to You from Portsmouth was a great success and he thanked the 21C program for bringing it to the community; Sugar River Drive is open on the Claremont side; the Library is expecting its usual summer influx of genealogists.

Ms. Bopp said at 5 p.m. this evening Stevens High School started their football practice for this year. She noted the Bryant Credit Union broke ground on its facility. She said the Way School condominiums are an amazing project.

Mr. Prozzo said there will be a Walk 10 Program this Saturday at 10 a.m. at Home Depot.

Mr. Irish concurred that the Way School is amazing. He said the developer kept a lot of its historical value. He noted that every unit sold (4) has been to people moving to Claremont.

REPORT OF THE SECRETARY

A motion was made by Mr. Austin and seconded by Mr. Prozzo to accept the minutes of the July 12 and 19, 2006, City Council meetings as amended.

Mr. Swift said the motion to table Ordinance 474 in the July 19th minutes on page 9 had Mr. Regan voting yes and no. Mr. Swift should be one of the yes votes.

Motion carried 9-0.

APPOINTMENT TO BOARDS AND COMMITTEES

None

OLD BUSINESS

New Community Center Update

Mr. Santagate said Jim Feleen asked to do the new Community Center update at the September Council meeting as he would have more information at that time.

Ordinance #477 Amending the Industrial Zoning Districts – Second Reading – Public Hearing

Mr. Santagate said that while working on Syd Clarke Park, zoning inconsistencies were noted. This amendment takes housing out of the industrial zone. This proposal allows the industry district III to become a transition zone and to contain high technology and light industry.

Ms. Taylor said in 1990 when the Industrial III zone was created into part 1 and 2, the zoning map was not changed and the zoning maps govern.

Nancy Merrill gave a chronological account of the changes. This proposal is for high technology and light industry in the Industrial 3 district which is compatible with the neighborhoods.

Ms. Taylor said this puts appropriate industries together in all of the industrial districts. She noted that existing industries are grandfathered as are residential homes in current industrial districts. The concept of smart growth is to segregate industrial uses from residential uses.

Ms. Taylor reviewed some of the changes in the proposed ordinance for clarification.

Mayor Pope read a letter from the Claremont Planning Board dated July 24, 2006, which supported (5-0 vote) the passage of Ordinance 477, with a recommendation for less restrictive language on emissions.

Ms. Taylor said that the language for noxious emissions is in the existing I-1 district ordinance. The standard was set in 1978 by the Council and we think it is appropriate to extend it to the entire industrial district area.

There was discussion on how the Planning Board would determine if the criteria is met. Ms. Taylor said the burden of proof falls to the applicant to show they meet the standards. She said the term noxious odor is defined as something that is injurious to health.

Ms. Cutts said she supports this. She wanted to confirm that an incinerator could not be located there. Ms. Taylor said as long as they met the standard of not emitting any noxious odors, etc., they could. She said under New Hampshire law, it is virtually impossible to outright ban an industry if it meets the criteria of an industrial zone.

Mayor Pope read a letter from the Claremont Development Authority giving their general support. They asked for a better description of noxious or offensive uses.

A motion was made by Mr. Neilsen and seconded by Mr. Irish to adopt Ordinance #477 Amending the Industrial Zoning Districts.

Mayor Pope opened the public hearing.

Malcolm Fogg, Bible Hill, asked to give his 5 minutes to Jacqueline Elliott. The Council agreed.

Jacqueline Elliott, Ward 1, said as an FYI that Vermont does not outlaw waste incineration. They put a law on the books that requires the best technology available to incinerate waste. That has the effect of discouraging waste incinerators from locating in the state of Vermont. She is asking the Council to not pass the ordinance as currently drafted. The language is open for interpretation. In Sec 22-317 Prohibited Uses, the language "open stack structures" is vague. Claremont is currently home to two major polluting Title V air pollution facilities (Wheelabrator and APC Paper) with the potential for a third and we don't need more. She wants language in Ordinance 477 that requires industrial developers to employ maximum achievable control technology and/or best achievable control technology to prevent process pollution from passing the property boundaries. There should be language that requires emissions monitoring.

Susan Doody, Ward 2, said through zoning she feels we can curtail the expansion of the incinerator. Construction demolition is a big issue in our state. She thinks the ordinance is a great start, but doesn't think it should be passed yet. It needs "more teeth." The language is too vague and it needs more specifics.

Paul Knapp, Ward 3, said to put regulations in place would give us a start.

Joe Gorman, Ward 2 and Chairman of the Claremont Development Authority, said current zoning at Syd Clarke Park permits development that is broader than currently proposed in Ordinance 477. Ordinance 477 is consistent with covenants at Syd Clarke Park. Even with the

covenants, developers are looking for zoning that supports the covenants. What is before us is better than what we had before.

Robert Woodman, Ward 3, asked if there is any documented evidence of any noxious fumes or pollution from the existing industry or is it hearsay. He would like to see the documented information. This ordinance is probably not much more restrictive than the existing one and it can be changed later.

Malcolm Fogg, Bible Hill, asked why a diesel truck terminal and day care center are allowed in the same area. It looks like heavy polluters could weasel their way in here and he's not interested in it.

Don LaPlume, East Street, said this ordinance will help development as far as adding businesses into the industrial park. It will strengthen what we have now.

Mayor Pope closed the public hearing.

Mr. Prozzo said the Planning Board voted 5-0 and the Claremont Development Authority endorsed this. It's a win-win. It's a great start and he thinks we should pass it and move on.

Ms. Cutts appreciates the public input and agrees with Mr. Prozzo that this is a great place to start, although it is not finished.

Mr. Irish said we had nothing before and this is a start. He supports getting this done and moving forward.

Mr. Swift said it's a great step forward. He thinks we should pass the ordinance now and in the future revise it.

Ms. Bopp agrees it is a start and it does need to be tweaked.

Mr. Regan asked if, once the ordinance was passed and industry is here, is it too late to toughen the ordinance. Ms. Taylor said the basic rule is anything that happens within 120 days of the presentation of a new rule is governed by the new rule.

Mr. Neilsen thinks it is better than what is out there now. He thinks it should be passed now and tweaked later.

Ms. Cutts asked if it is approved tonight, can it be brought back soon for changes. Ms. Taylor said absolutely.

Ms. Taylor said that we have received information from Ms. Elliott and the CLEAR group. Ms. Taylor said we are not Vermont or Maine. New Hampshire has differing enabling statutes. It is not a home rule state. The local communities only have the powers that the state allows us to

have. The information that we've been provided has not been ignored. We look to see what we can use under New Hampshire law.

Mr. Austin agrees that we can't write any stronger language at this point. He would like taxes to go down and see businesses come in. He will vote yes.

Mayor Pope would like, in the future, to have an environmental impact study done for businesses of question at the Planning Board review. He likes the idea of landfill and waste processes in the public (not haulers). He would like to know if we can do something with state and public standards. He would like the state to explain the air monitoring station across from the school. He would like to look at these issues in the near future if the Council would direct that kind of thing.

Roll Call Vote: Motion carried 9-0.

CITIZEN'S FORUM

Jacqueline Elliott, Ward 1, asked Mayor Pope to provide an update on the Waste Committee. She asked for information about the recycling pilot which is up for a report in September.

Malcolm Fogg, Bible Hill, asked where to address his concerns about a burned-out, condemned house at the corner of Bible Hill and Piper Hill that was burned on Halloween. He also asked about the condemned house by the paper company. Mr. Prozzo said it is private property and the City has no jurisdiction. Ms. Taylor said those questions should be directed to the City Manager's office or Code Enforcement.

Paul Knapp, Ward 3 and Trustee of the Fiske Free Library, said the book and bake sale is coming up and for many years it was held in the Conference Center. Last fall the building was closed. He wants to know where to go to get permission to be able to use the building. He requested to be on the September agenda with this issue.

Robert Woodman, Ward 3, represents a significant group of city tax payers who would like to thank the Public Works Department for the activities that are going on. It is refreshing to see work being done by our own people and the changed attitudes with the change of administration.

Kyle Messier, Ward 1 and Main Street representative, gave an update on the Brown Block. On July 14th Sovereign Bank approved a tax credit and loan deal to fill the funding gap for the restoration of the Brown Block. She thanked the Main Street Board of Directors, Bethany Yurek, City Manager Guy Santagate and Planning and Development Director Anthony Lyons for their support. She also thanked Senators Bob Odell and Ted Gatsas. Mr. Santagate noted that Main Street is a volunteer group and they have done a great job revitalizing downtown. He talked about the four funding agencies for the Brown Block and how it will make a major difference in downtown.

Jim Neilsen stepped down from the Council table to speak. He passed out packets to the Council about Bank Avenue. He said the right-of-way (ROW) easement granted July 1, 1942, was for the proposed laying of sewer pipe, sewer manhole covers, etc. The City's 15-foot ROW easement runs parallel to the brook. He showed a log berm picture; talked about a 2001 letter from New Hampshire Department of Environmental Services; said he was disappointed that letters were sent notifying abutters that work would be done that would impact wetlands adjacent to their properties, but no work was done; showed a cost estimate from Public Works; and talked about an e-mail from Mr. Temple. He told the Council it's time to "move off center."

Donald LaPlume, member of Main Street Board of Directors, thanked the City Manager, Anthony Lyons, Bethany Yurek and Kyle Messier for their work on the Brown Block. As a member of the Board of Director of the Chamber of Commerce, he said the Chamber wants Ordinance 474 put back on the City Council's agenda for discussion.

OLD BUSINESS (Cont'd)

Open Space Ordinance – Formation of Ad Hoc Committee

Mayor Pope made the following suggestions for members of an Ad Hoc Committee to re-look at the Open Space Ordinance: member of the Planning Board, member of the Zoning Board, member of the Conservation Commission, member of the School Board, member of the Council, member of the Chamber of Commerce, member of the Claremont Development Authority, a citizen and a developer.

Mr. Prozzo encouraged Mayor Pope to form the committee. He suggested Mayor Pope make the charge to the committee as narrow as possible.

Ms. Cutts asked about the recommendation going to the Planning Board before coming to Council. Mayor Pope thinks it should go to the Conservation Commission as well. Mayor Pope highly encouraged the committee to stick with this one ordinance or concept and he wanted a City Staff member to sit on the committee.

Mr. Regan volunteered as a Council member.

Mr. Prozzo believes it is prudent to allow the Mayor to appoint the committee without bringing it back to the Council. Mayor Pope will send a memo through the City Manager's office. Mr. Regan suggested and Mayor Pope agreed on a compilation of appointments and volunteers.

Joe Gorman, Jr., Ward 2 and member of the Claremont Development Authority, said this issue was reviewed at the last meeting and they agreed the concept makes sense. He supports the Ad Hoc Committee.

Kyle Messier, supports this committee and volunteered to be on the committee. Mike Satzow, Ward 2, and Don LaPlume support the Ad Hoc Committee.

The Council discussed the Ad Hoc Committee.

Ms. Taylor reminded everyone that the Ad Hoc Committee is subject to the Right-to-Know law. All meetings must be publicly noticed, held in public and minutes are to be taken.

Mr. Neilsen said Dave Putnam, Chairman of the School Board, was willing to give his input and would probably make a strong facilitator for the committee.

NEW BUSINESS

Audit Report

Greg Colby, Director of Plodzik & Sanderson, has done an audit of the City's books. He presented the eight most important pages in draft form. He hopes to have the final report to the Council by the September meeting. As of December 31, 2003, the City did not meet GASB 34 so an adverse opinion was issued on all aspects of the audit report. In 2004 not all parts were implemented and we were given a clean opinion on certain aspects. In 2005 the adverse statements will affect exhibits A and B only. Fund Balance as of December 31, 2005, was \$1,582,637. Mr. Colby said it is low; 7-13% of gross appropriations are recommended. Mr. Santagate said the \$450,000 contingency is very conservative. Mr. Colby said the Undesignated Fund Balance (surplus) is \$550,897. Schedule 1, Major General Fund, had a shortfall of revenue of \$104,499. Schedule 2, Major General Fund, had a \$456,932 positive balance which goes to undesignated fund balance. There were no material deficiencies. Mr. Colby appreciated the help of the Staff.

Multi-Year Lease of Computer Equipment

Ms. Taylor said this is the next phase of the city's computer upgrade. The money is already appropriated in the 2006 budget for this year's portion of the lease agreement.

Vicki Lee, Treasurer, said we have a four year lease for 20 more machines. For the next four years, it will be \$7,470.64 which has already been approved in the 2006 budget. We have a four year lease on the mail server for \$1,559.00 and a one time \$6,515.48 expense for the e-mail server software. Dell got the computer bid. System Plus got the exchange server bid and PC Mall got the software bid.

A motion was made by Mr. Prozzo and seconded by Ms. Bopp to authorize the City Manager or his designee to enter into a multi-year agreement for the lease of computer hardware and related equipment for City administrative offices. The proposed lease agreement contains a termination clause in the event of non-appropriation of sufficient funds for the second, third and fourth years of the agreement; such funds required to be expended in the first year of the agreement having been raised and appropriated in the 2006 City Budget.

Motion carried 9-0.

Resolution 2006-18 \$74,867.24 Supplemental Appropriation to Expend Parking Meter Fund – Public Hearing

Mr. Santagate said these funds will be used to complete the road work around Broad Street Park.

A motion was made by Mr. Neilsen and seconded by Mr. Austin to adopt Resolution 2006-18 \$74,867.24 Supplemental Appropriation to Expend Parking Meter Fund.

Mayor Pope opened the public hearing. No one spoke. He closed the public hearing.

Mayor Pope summarized the resolution.

Roll Call Vote: Motion carried 9-0.

Resolution 2006-19 Authorization to Borrow Up to \$1,200,000 from the State Revolving Loan Fund (if not SRF available to come from the Water Enterprise Fund Balance) for Improvements to the Water System – Public Hearing

Ms. Taylor said there are two potential sources of local funding if the SRF (State Revolving Loan Fund) funding is not approved. Mr. Santagate said the plan is to borrow \$1.2 million from the SRF because it's a good deal for the city. They match 20% of the loan which pays the interest. In the event, that we can't get it, we want to fall back on the money in the water enterprise fund balance. There is about \$4 million in that fund.

A motion was made by Mr. Prozzo and seconded by Ms. Cutts to adopt Resolution 2006-19 Authorization to Borrow Up to \$1,200,000 from the State Revolving Loan Fund (if not SRF available to come from the Water Enterprise Fund Balance) for Improvements to the Water System.

Mr. Neilsen asked if the money is borrowed from the water fund, will we pay comparable interest. Mr. Santagate said we pay 25 basis points interest.

Mayor Pope opened the public hearing.

Jacqueline Elliott, Ward 1, asked about the option to sell water and sewer services to other towns. Mr. Santagate said there are no specific plans, but would like to explore the options since we have great capacity in that area.

Mayor Pope closed the public hearing.

Bruce Temple, Public Works Director, said in the Cash Report there is about \$4 million in the Water Department Reserve Funds. The water capital replacement fees (\$311,000) go to the water treatment plant. In 2003, we were authorized to borrow up to \$7 million for water

improvement projects. This resolution is needed to borrow from the state, and if not available, we will use the money in the water enterprise fund and the water capital replacement fees fund.

Roll Call Vote: Motion carried 9-0.

COMMITTEE REPORTS

Upper Valley Lake Sunapee Regional Planning Commission – Bernie Folta

Bernie Folta, Ward 3, on September 14, 2005, was appointed to the Upper Valley Lake Sunapee Regional Planning Commission (UVLSRPC). It is one of nine New Hampshire regional planning commissions. He gave a summary of what the UVLSRPC does. There are 25 towns and 2 cities in the UVLSRPC. UVLSRPC's powers are advisory. Out of 70 possible commissioners, there are currently 43. Towns have to pay dues on a per capita basis and Claremont has the largest population in the UVLSRPC, so we pay the most. Claremont has its own planning department, so he questioned whether Claremont is getting its money worth for the \$14,466 we pay. He doesn't think so. He has had concerns that had to do with roles. It seemed the Executive Director was running the Commission meetings, not the President. He questioned processes. He was appointed to By-laws Committee. He talked about governance flaws. At-large Commissioners represent no municipality and pay no dues, but have a vote. Even though Vermont communities withdrew from the UVLSRPC, there was still At-large Commissioners who were residents of Vermont. The Executive Director is a long time planner with the UVLSRPC and was appointed to her post in 2002 and has no statutory authority. Any authority is at the sole discretion of the commissioners. He was interested in the finances and got copies of the staff salaries. The UVLSRPC has a \$300,000 surplus out of a \$550,000 budget and it seemed unusual that the previous fall the dues rate was raised from \$1.05 to \$1.10 per person, per community. He said they are not following New Hampshire law on open meetings and records. He discovered the commission did not have a legal counsel and it seemed they are creating and amending contracts without any legal review. He felt he had joined a regional planning commission that had some serious flaws and rather than quit, he felt he would rather improve it. He feels there has been some progress. Some of his by-laws recommendations have been accepted. The Commission is getting a regular attorney to consult with. The meetings have started to open up, but the dues increase has not been rolled back and the surplus is still way up. He thinks the UVLSRPC needs to be more open, transparent, communicate more, responsive, business-like and be service oriented. He recommends 1) Claremont gives the UVLSRPC a chance and to fill the two vacant seats with people who will participate, 2) UVLSRPC needs outside management review, 3) which would lead to SWOT (strength, weaknesses, opportunities, threats) and 4) UVLSRPC needs a strategic plan. Claremont needs to become a strong regional partner.

Peter Stanley, Vice President of the UVLSRPC, said he has been involved for five years. He distributed a summary of services provided for Claremont. He works for New London as a zoning administrator. He said there are things the UVLSRPC needs to do. He looks forward to improvement. The flaws can be worked through. One of the problems is that planning commissions have no support from the state. They function only in an advisory capacity.

CITY MANAGER REPORT

Mr. Santagate commented on the Audit Report and discussed the Fund Balance. He sees the economic development tax base will increase in Claremont. Given the improved condition, we may be able to reconsider changes to the tax exemptions to help qualifying seniors and veterans with taxes. At the next Council meeting he will recommend \$200,000 be taken from surplus and moved to Claremont Track, Inc. to install a light system and to buy the necessary equipment for state meets and to set up a small reserve for equipment in the future. He thinks it would be prudent to put on the September agenda a request to appropriate up to \$75,000 for a skateboard park, with credit going to Larry Beswick for his work toward the skateboard park. He mentioned the 10-year transportation plan. Between Drapers Corner and North and Main Street, there is \$6-7 million on the 10-year plan for 2008 and 2010. The other big thing that is about to happen is the Kellyville to Claremont road construction. It will be \$10 million of reconstruction to widen shoulders and improve access. The Claremont side of Sugar River Drive has been temporarily repaired and can be opened, but the Newport side cannot be opened. If it were open, it would be an alternate route when the Kellyville Road is being worked on. Mr. McDermott from Lowe's said they are working with DES on the soil contamination. They are committed to the project. Lowe's target date is spring of next year. Ms. Cutts asked about Lowe's putting up a sign that indicates it is a clean up site. Mr. Santagate will follow up on it.

FUTURE AGENDA ITEMS AND DIRECTIVES

Mayor Pope said the Waste Committee has held some meetings with Antioch. The recycling pilot has not started yet. The change in Public Works Director has thrown a curve, but it has not been forgotten. There have been meetings to set up the foundation toward working on the recycling pilot. Mayor Pope may ask for an extension.

Mayor Pope said the earlier questions about condemned houses should go to the city before being brought to the Council.

Mr. Neilsen asked about the land swap at Monadnock Park. Ms. Taylor said it is in limbo. We are still trying to figure out how many feet/where. Mr. Santagate said Lowe's was to remove some land at Monadnock Park (back side of track) to mitigate the construction on Washington Street. When it was done, the Parks and Recreation Department didn't want to change what had been done, so they are looking at the old football field to see if it makes sense to move the soccer fields there. Mr. Santagate will check with the engineers.

Ms. Cutts asked if we can choose a date to reassess Ordinance 474. She was interested in forming the environmental committee. She asked about putting the Conference Center on as a future agenda item. Mayor Pope said the use does need to be defined. He will see what's going on.

ADJOURNMENT

At 11:20 p.m., a motion was made by Mr. Prozzo and seconded by Mr. Swift to adjourn.

Motion carried 9-0.

CONSULTATION WITH LEGAL COUNSEL

Respectfully Submitted,

Dorée M. Russell
Clerk to the Council