

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, COUNCIL CHAMBERS  
DATE: MONDAY, DECEMBER 18, 2006

PORTSMOUTH, NH  
TIME: 7:00PM

## AGENDA

- I. CALL TO ORDER [7:00PM or thereafter]
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE

### PROCLAMATION

1. The Chase Home for Children – Salvatore Grasso

### PRESENTATIONS

1. Update on Lafayette School Building - Russ Grazier, Jr.
2. Mayor's Blue Ribbon Committee on Building Re-use – Heather Hurtt

### V. ACCEPTANCE OF MINUTES – DECEMBER 4, 2006

### VI. PUBLIC COMMENT SESSION

### VII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 10, ARTICLE XV OF THE ORDINANCES BY THE ADOPTION OF A NEW SECTION 10-1508 ENTITLED RESIDENTIAL DENSITY INCENTIVE PLANNED UNIT DEVELOPMENT (RDI-PUD) ORDINANCE; ADDITION OF DEFINITIONS TO ARTICLE 1, SECTION 10-102A OF THE ZONING ORDINANCE

### VIII. APPROVAL OF GRANTS AND DONATIONS

- A. Acceptance of Police Department Grants and Donations
  - Grant from the US Department of Justice for “Operation Streetsweeper” in the amount of \$119,583.00
  - Grant from the Department of Justice Award Program for the replacement of bulletproof vests in the amount of \$3,185.00
  - Donation from Wal-Mart Foundation in the amount of \$1,750.00

*(Sample motion – move to approve and accept the grants to the Portsmouth Police Department as listed)*

- B. Acceptance of a Grant from the New Hampshire Charitable Foundation – Piscataqua Region (**Sample motion – move to authorize the City Manager to accept and expend funding in the amount of \$3,000.00 from the New Hampshire Charitable Foundation – Piscataqua Region to hire an intern to assist the City with the ICLEI milestones listed in the City Manager’s Comments dated December 14, 2006**)

**IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

- A. Second reading of Ordinance amending Chapter 10, Article XV of the Ordinances by the Adoption of a New Section 10-1508 entitled Residential Density Incentive Planned Unit Development (RDI-PUD) Ordinance; Addition of Definitions to Article 1, Section 10-102A of the Zoning Ordinance

**X. CONSENT AGENDA**

**A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA**

- A. Acceptance of Donations to the New Library Building Fund
- Eleanor J. Morelli - \$20.00
  - Robert T. Menk & Luce Aubry - \$50.00
  - M. Christina Perri - \$50.00
  - Peter J. & Nancy Loughlin - \$100.00
  - Russell & Barbara R. Vanbilliard - \$100.00
  - Roberta A. Wood - \$200.00

**(Anticipated action – move to approve and accept the donations to the New Library Building Fund as listed)**

- B. Donation to the Coalition Legal Fund from the Town of Carroll in the amount of \$1,000.00 (**Anticipated action – move to approve and accept the contribution as listed, to be placed in the Coalition Legal Fund**)
- C. Letter from Barbara Massar, Pro Portsmouth, Inc., requesting permission to hold the 17<sup>th</sup> Annual Children’s Day on Sunday, May 6, 2007 and the 30<sup>th</sup> Anniversary of Market Square Day on Saturday, June 9, 2007 (**Anticipated action – move to refer to the City Manager with power**)

**XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Letter from Erik Anderson, Portsmouth Taxpayers Association Sub-Committee on Tax Controls, regarding City of Portsmouth Contract Renewals

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

### **A. CITY MANAGER**

#### **Items which require Action under other sections of the Agenda**

1. Public Hearing/Second Reading of Proposed Ordinance Amendments:
  - 1.1 Public Hearing/Second Reading of Proposed Ordinance Amending Chapter 10, Article XV of the Ordinances by the Adoption of a New Section 10-1508 entitled Residential Density Incentive Planned Unit Development (RDI-PUD) Ordinance; Addition of Definitions to Article 1, Section 10-102A of the Zoning Ordinance  
**(Action on this matter should take place under Section IX of the Agenda)**

#### **City Manager's Items Which Require Action**

1. Request to Renew Lease of 251 Bartlett Street by the Creek Athletic Club
2. Portsmouth Housing Authority Request for Loan
3. Request to Rescind Unused Borrowing Authorizations
4. Establish Several Work Sessions
5. Request for Approval of Easement to City of Dover
6. Proposed Extension of Agreement with St. John's Masonic Association for Use of their Parking Lot
7. Request for Acceptance of Borthwick Avenue Sewer Easements
8. Request for Approval of Verizon Pole License Agreement 6AACHH

#### **Informational Items**

1. Economic Development Commission WiFi Referral Report

### **B. MAYOR MARCHAND**

1. Appointment to be Considered:
  - Appointment of Jody Record – Board of Library Trustees
  - Appointment of Megan Tehan – Board of Library Trustees
  - Appointment of Paige Roberts – Planning Board from Alternate to Regular Member
  - Appointment of Christine Lukacz – Portsmouth Housing Endowment Fund Advisory Board

- Charles LeMay – Zoning Board of Adjustment Alternate Member
  - Henry Sanders – Zoning Board of Adjustment from Alternate to Regular Member
  - Carol Eaton – Zoning Board of Adjustment from Alternate to Regular Member
2. Appointments to be Voted:
- Appointment of Gary Lowe – Cable Television Communications Commission Alternate Member
  - Reappointment of Jerry J. Hejtmanek – Planning Board
  - Reappointment of Anthony Coviello – Planning Board
  - Reappointment of Alain R. Jousse – Zoning Board of Adjustment
  - Reappointment of Duncan MacCallum – Zoning Board of Adjustment
  - Reappointment of Arthur E. Parrott – Zoning Board of Adjustment
3. \*Reports

**C. COUNCILOR RAYNOLDS**

1. Article from Los Angeles Times: Global Warming Local Initiatives
2. Re: Zoning Ordinance and Affordable Housing
  - Article from New York Times Cities Compete in Hipness Battle to Attract Young
  - Seacoast Ventures Vital Statistics – A Look at the Trends for the Year Ahead

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

**XIV. ADJOURNMENT [AT 10:00PM OR EARLIER]**

**KELLI L. BARNABY, CMC  
CITY CLERK**

(\*Indicates verbal report)

**INFORMATIONAL ITEMS**

1. Historic District Commission minutes of the November 1, 2006 meeting

**NOTICE TO THE PUBLIC WHO ARE HEARING IMPAIRED:** Please contact Dianna Fogarty at 603-610-7270 one-week prior to the meeting for assistance.

**CITY OF PORTSMOUTH  
PORTSMOUTH, NH 03801**

**Office of the City Manager**

**Date:** December 14, 2006

**To:** Honorable Mayor Steve Marchand and City Council Members

**From:** John P. Bohenko, City Manager

**Re:** City Manager's Comments on December 18, 2006 City Council Agenda

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***Presentation:***

1. **Update from Russ Grazier Re: Lafayette School.** Russ Grazier will be present to give the City Council an update on the Lafayette School Feasibility Study. As you are aware in April 2006, the City Council authorized the Portsmouth Music and Arts Center to undertake a feasibility study of the Lafayette School building to determine if it should be an appropriate place for their new facility (see attached).
2. **Presentation by Heather Hurtt, Chair, Mayor's Blue Ribbon Committee on Building Re-use.** On Monday evening, Heather Hurtt, Chair of the Mayor's Blue Ribbon Committee on Building Re-use, will be giving an update as to the activities and progress of that Committee to date.

***Acceptance of Grants/Donations:***

1. **Acceptance of Police Department Grants and Donations.** Attached under Section VIII of the Agenda is a memorandum from John D. Kelley, Chairman of the Portsmouth Police Commissioners, and Michael J. Magnant, Police Chief, requesting that the City Council approve the following grants and donations:
  - a. A grant in the amount of \$119,583.00 has been approved by the US Department of Justice for "Operation Streetsweeper", through US Attorney Tom Colantuono's office. Operation Streetsweeper funds are used to help support Portsmouth's Special Investigations Unit. Our SIU is the main gatekeeper keeping drugs off of Portsmouth streets.

- b. A grant in the amount of \$3,185.00 which represents 50% of the cost for 14 new or replacement bulletproof vests for Portsmouth officers. This is a Department of Justice Award program solely for the purpose of helping to insure that officers are properly protected with bullet proof vests. The remaining 50% of the vest costs comes out of the police department budget.
- c. A donation in the amount of \$1,750.00 from Wal-mart Foundation. The funds will be used for community initiatives that promote police-community partnerships.

The Police Commission is submitting this information pursuant to City Policy Memorandum #94-35 for City Council approval and acceptance.

*I would recommend that the City Council approve and accept the grants to the Portsmouth Police Department as listed. Action on this matter should take place under Section VIII of the Agenda.*

2. **Acceptance of a Grant from the New Hampshire Charitable Foundation – Piscataqua Region.** As you know, the City has become a member of ICLEI. There are four milestones that members pledge to complete:

- Conduct a greenhouse gas emissions inventory and forecast to determine the source and quantity of greenhouse gas emissions in the jurisdiction;
- Establish a greenhouse gas emissions reduction target;
- Develop an action plan with both existing and future actions which when implemented will meet the local greenhouse gas reduction target;
- Implement the action plan; and
- Monitor and report progress

As a first step in tackling these milestones, the City has requested grant funding from the Otto Fund of the New Hampshire Charitable Foundation – Piscataqua Region, to pay for and hire an intern. The New Hampshire Charitable Foundation has notified us that the Otto Fund will award funding in the amount of \$3,000.00.

*I would recommend the City Council move to authorize the City Manager to accept and expend funding in the amount of \$3,000.00 from the New Hampshire Charitable Foundation – Piscataqua Region to hire an intern to assist the City with the ICLEI milestones listed above. Action on this matter should take place under Section VIII of the Agenda.*

## ***Items Which Require Action Under Other Sections of the Agenda:***

### **1. Public Hearing/Second Reading of Proposed Ordinance Amendments:**

- 1.1 **Public Hearing/Second Reading of Proposed Ordinance Amending Chapter 10, Article XV of the Ordinances by the Adoption of a New Section 10-1508 entitled Residential Density Incentive Planned Unit Development (RDI-PUD) Ordinance; Addition of Definitions to Article 1, Section 10-102A of the Zoning Ordinance.** As a result of the December 4<sup>th</sup> City Council meeting, under Section VII of the agenda, I am bringing back for public hearing and second reading the attached proposed ordinance Amending Chapter 10, Article XV of the Ordinances by the Adoption of a New Section 10-1508 entitled Residential Density Incentive Planned Unit Development (RDI-PUD) Ordinance; and addition of Definitions to Article 1, Section 10-102A of the Zoning Ordinance.

As you will recall, at the November 13<sup>th</sup> City Council meeting, the Planning Board provided a report back regarding a rezoning request from The Housing Partnership. Specifically, the Planning Board recommended a Residential Density Incentive Planning Unit Development (RDI-PUD) Ordinance, which was drafted by the Planning Board and staff, working in conjunction with The Housing Partnership. The Council voted on November 13<sup>th</sup> to accept the Planning Board's report back on The Housing Partnership's rezoning request and moved to authorize the City Manager to bring the Residential Density Incentive Planned Unit Development (RDI-PUD) Ordinance back for first reading on December 4<sup>th</sup> (see attached ordinance under Section IX of the agenda).

As you will also recall, the Planning Board also provided a report back on November 13<sup>th</sup> regarding The Housing Partnership's request for an access easement on Bedford Way, which relates to their rezoning request; the Council voted on November 13<sup>th</sup> to postpone action and discussion on this item until final action is taken on the zoning matter.

The City consultant and City staff will give a presentation prior to the public hearing regarding this proposed ordinance.

*I would recommend the City Council move to pass second reading and schedule a third and final reading on the attached proposed Residential Density Incentive Planned Unit Development (RDI-PUD) Ordinance at the January 8, 2007 Council meeting. Action on this item should take place under Section IX of the Agenda.*

## ***Consent Agenda:***

1. **Acceptance of Donations to the New Library Building Fund.** Attached are copies of checks donating funds to the New Library Building Fund:

- Eleanor J. Morelli for \$20.00
- Robert T. Menk & Luce Aubry for \$50.00
- M. Christina Perri for \$50.00
- Peter J. & Nancy Loughlin for \$100.00
- Russell & Barbara R. Vanbilliard for \$100.00
- Roberta A. Wood for \$200.00

*I would recommend that the City Council approve and accept the donations to the New Library Building Fund as listed. Action on this matter should take place under Section X of the Agenda.*

2. **Donation to the Coalition Legal Fund.** Attached is a copy of a check in the amount of \$1,000.00 from the Town of Carroll for a donation to the Coalition Legal Fund. These funds will be utilized to continue our fight to eliminate the statewide property tax.

*I would recommend the City Council move to approve and accept the contribution as listed, to be placed in the Coalition Legal Fund. Action on this item should take place under Section X of the agenda.*

## ***City Manager's Items Which Require Action:***

1. **Request to Renew Lease of 251 Bartlett Street by the Creek Athletic Club.** Attached is a letter from George McKenna, President of the Creek Athletic Club, requesting an extension to its lease, which is scheduled to expire on March 31, 2007. The request is for a one-year extension effective April 1, 2007 through March 31, 2008. For your information, I have attached a copy of the proposed Lease as well as a photograph of the Creek Athletic Club. *I would recommend the City Council move to authorize the City Manager to extend the Lease with the Creek Athletic Club for the property at 251 Bartlett Street for a period of April 1, 2007 through March 31, 2008.*
2. **Portsmouth Housing Authority Request for Loan.** Attached is a letter from Joseph N. Couture, Executive Director of the Portsmouth Housing Authority, requesting a loan in the amount of \$100,000.00 interest free for a period of two years at which time it will be paid back in full. (See attached proposed loan agreement.) The loan is being requested in order to help bridge a budget shortfall that the Housing Authority has as it relates to the Senior Center programs including the transportation component of the program. The reason is as follows:

“Since the inception of the Senior Center by the Portsmouth Housing Authority, the U.S. Department of Housing and Urban Development has allowed financial participation for the Senior Center. In its financial review for the period ending



December 31, 2006 HUD has terminated the use of federal housing funds for non-federal programs due to budget restrictions. Portsmouth was not the only housing authority in New Hampshire to face this dilemma. For this reason we find ourselves faced with a financial crisis at the Senior Center, and we are doing everything that we can to insure that these services remain in the City of Portsmouth.”

I have discussed this matter with the City Attorney and Finance Director and we have utilized a similar type of loan agreement with the Trustees of the Trust as it relates to the reconditioning of the docks at Prescott Park. *Therefore, I would recommend the City Council authorize me to enter into a loan agreement to lend to the Portsmouth Housing Authority \$100,000.00, as presented by the City Attorney’s Office.*

3. **Request to Rescind Unused Borrowing Authorizations.** Because of various reasons, the City does not always use the total borrowing authorization for capital projects.

Unissued loan authorizations remain on the City’s books indefinitely until such time that they are borrowed or rescinded. As a part of financial housekeeping, the city should rescind the following unissued bond/loan authorizations:

**General Fund:**

**Total amount to rescind - \$488,000**

<b>Resolution #12-2004 for \$575,000</b>	<b>Rescind amount</b>	<b>\$138,000</b>
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Resolution # 12-2004 established the borrowing authorization of \$575,000 to purchase Emergency One – 75’ Aerial Quint fire engine.

After using the appropriation for the first interest payment for the fire apparatus as a down payment due to time of the note, the total amount borrowed was \$437,000 leaving a balance of \$138,000.

<b>Resolution #11-2005 for \$350,000</b>	<b>Rescind amount</b>	<b>\$350,000</b>
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Resolution # 11-2005 established the borrowing authorization of \$350,000 to purchase an Emergency One Rescue Pumper. After careful review, it is found it to be in the best interest for the City not to lease, or issue a bond or note for this purchase.

**Water Fund:**

**Total amount to rescind- \$667,440.22**

<b>Resolution #11-1998 for \$2,088,000</b>	<b>Rescind amount</b>	<b>\$480,000</b>
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Two projects from this resolution have been completed SRF loan is not required.

- \$360,000-Pease Booster Station - This project was completed with funds from the Pease Development Authority as part of the Wastewater Disposal and Water Facilities Transfer agreement.

- \$120,000-Upgrade to the Motor Control - This project was completed in conjunction with the Corrosion Control project. Balance of authorization is not required.

**Resolution #13-1999 & 12-2001 for \$6,450,000      Rescind amount \$187,440.22**

Total cost for the Spinney Road Tank came in less than anticipated by \$187,440.22

**Sewer Fund:**

**Total amount to rescind      \$13,163.62**

**Resolution #13-2000 for \$6,600,000      Rescind amount \$13,163.62**

Total cost for the Pease Waste Water Treatment Plant came in less than anticipated by 13,163.62

*May I have your approval to rescind the unused borrowing resolutions for the following funds: General Fund total amount \$488,000.00; Water Fund total amount \$667,440.22 and Sewer Fund total amount \$13,163.62.*

4. **Establish Several Work Sessions.** I am requesting the City Council establish the following work sessions:

- 1) Building Re-use Committee Re: Library Re-use on January 22, 2007 at 6:00 p.m., in City Council Chambers prior to the City Council regular meeting.
- 2) Blue Ribbon Committee on Board and Commission Appointments Process (Term Limits) on January 29, 2007 at 6:30 p.m., in City Council Chambers.
- 3) Re-use of Dobles Reserve Center on January 29, 2007 at 7:30 p.m., (immediately following Committee of Boards and Commission work session).

*I would recommend the City Council move to establish the aforementioned work sessions as presented.*

5. **Request for Approval of Easement to City of Dover.** The City of Dover is seeking a utility easement over land owned by the City of Portsmouth near the Bellamy Reservoir in Madbury to facilitate the start up of a new well on Dover property. Further, Dover requests to install a water line in the easement area in order to connect the new well to existing water infrastructure. The easement area is shown on the attached exhibit.

Portsmouth's Department of Public Works has reviewed the proposed water line installation plans with Dover's engineers and is satisfied with the construction methods and proposed use of the easement area. As consideration for the easement, the City of Dover will be replacing an existing culvert and a damaged flapper check valve on Portsmouth property. The Legal Department and Department of Public Works has

approved the form of the easement. *I would recommend the City Council move to authorize the City Manager to grant to the City of Dover a utility easement as described.*

6. **Proposed Extension of Agreement with St. John's Masonic Association for Use of their Parking Lot.** Since 1999, the City has been leasing the St. John Masonic Association's parking lot at 351 Middle Street. The parking lot is close to downtown and has sixty-nine (69) parking spaces. In the Agreement, the parking lot would be open to the public Monday through Saturday from 6:00 a.m. to 7:30 p.m. each day. For your information, I have attached a copy of the proposed Agreement with the Masonic Association outlining all the terms and conditions for the use of the lot. In exchange for the use of the lot, the City will pay the Association \$21,000.00 a year in two installments. The funds for the payment of the lease for the parking lot will come from the Parking Impact Fee Account which has a \$90,000.00 balance as of the end of November.

*May I have your approval on allowing me to enter into this Agreement with the Masonic Association from January 1, 2007 through December 31, 2007.*

7. **Request for Acceptance of Borthwick Avenue Sewer Easements.** The City is preparing to replace an existing sewer line in the area of Borthwick Avenue. See attached map. As part of the work, the City has obtained, or is in the process of obtaining, easements for the replacement line. The Legal Department has approved the form of the easements. The property owners who have granted, or are in the process of granting an easement, is as follows:

Griffin Family Corporation (2 easements) (Map 234 Lots 2 and 3)  
HCA Realty Inc. (Map 234, Lot 7 – 4A)  
Northern Utilities, Inc. (Map 234, Lot 1)  
Public Service Company of NH (Map 234, Lot 2A)  
Portsmouth Hospital Office Building Association (Map 234, Lot 2 -2)

*I would recommend the City Council authorize the City Manager to accept easements from the Griffin Family Corporation, HCA Realty, Inc., Northern Utilities, Inc., PSNH and Portsmouth Hospital Office Building Association to facilitate the Borthwick Avenue Sewer project.*

8. **Request for Approval of Verizon Pole License Agreement 6AACHH.** Attached is a request for a Pole License Agreement from Verizon for a new pole 6AACHH. This pole was placed to allow placement of fiber optics for a state of the art data system to Liberty Mutual at 255 Borthwick Avenue. This pole poses no impact to existing city infrastructure and the Public Works Department recommends approval of this license. Attached is a photograph of the pole. *I would recommend that the City Council approve the request from Verizon for pole license agreement 6AACHH, as recommended by the Public Works Department.*

## ***Informational Items:***

1. **Economic Development Commission WiFi Referral Report.** In response to a resident's inquiry about City interest in expanding wireless fidelity (WiFi) access in the City, the City Council referred the question to the Economic Development Commission (EDC) to investigate and report back.

By way of background, you will recall that in 2003 the City established WiFi access areas (or "hotspots"), in conjunction with the Chamber of Commerce and four local businesses. The Chamber of Commerce's Business Development Manager coordinated this effort and the WiFi infrastructure was installed with donated materials and services sequentially at the Chamber Information Kiosk in Market Square, at the Prescott Park boat dock, and at the public library. From May to October people in those areas can log on to the Internet, fill out a demographic fact sheet and enjoy free access for a two-hour period.

In response to the City Council referral, the EDC established a subcommittee to investigate the potential benefits and costs of expanding WiFi in the city. It limited its analysis to WiFi expansion for the purposes of adding value to the economic vitality of the city. The EDC has completed its task under the referral and at its December 1, 2006 meeting the EDC voted to submit the attached report to the City Council.