

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, COUNCIL CHAMBERS
DATE: MONDAY, JANUARY 22, 2007

PORTSMOUTH, NH
TIME: 7:00PM

- 6:00PM – ANTICIPATED “NON-MEETING” WITH COUNSEL – RSA 91-A:2 I (c)

AGENDA

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

PRESENTATION

1. Interim Report from Mayor’s Blue Ribbon Committee on Building Re-use Re: Disposition of the Old Library – Heather Hurtt

- V. ACCEPTANCE OF MINUTES – JANUARY 8, 2007

- VI. PUBLIC COMMENT SESSION

- VII. APPROVAL OF GRANTS AND DONATIONS

- A. Acceptance of Grant for the Cities Readiness Initiatives in the amount of \$4,093.00

- VIII. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Donations to the Coalition Legal Fund
 - Town of New Castle - \$500.00
 - Town of Hampton Falls - \$1,000.00
 - Town of Lincoln - \$1,000.00
 - Town of Moultonborough - \$1,000.00
 - Town of Newington - \$1,000.00

(Anticipated action – move to approve and accept the donations as listed, to be placed in the Coalition Legal Fund)

- B. Acceptance of Donations to the New Library Building Fund
- Jill H. Breneman - \$50.00
 - PM Campbell - \$100.00
 - O. L. & Sharon S. Thagard - \$100.00
 - Roberta O. & Barry P. Finkelstein - \$100.00
 - Anne Rouse & Matthew P. Sudduth - \$250.00

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

- C. Letter from Donald Allison, Eastern States 20 Mile, requesting permission to hold the Eastern States 20 Mile Road Race on Sunday, March 25, 2007 ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from Christopher Courage, American Lung Association, requesting permission to hold the 22nd annual Clean Air Challenge Seacoast Bike Tour on May 19, 2007 and May 20, 2007 ***(Anticipated action – move to refer to the City Manager with power)***
- E. Letter from Emily Yadati, American Diabetes Association, requesting permission to hold the America's Walk for Diabetes on Saturday, September 29, 2007 ***(Anticipated action – move to refer to the City Manager with power)***
- F. Letter from Kaarin Olofsson, Greater Portsmouth Chamber of Commerce, requesting permission to hold the 12th annual Harbour Trail Road Race on Saturday, July 14, 2007 ***(Anticipated action – move to refer to the City Manager with power)***
- G. Letter from Allyson Welsh, Cystic Fibrosis Foundation, requesting permission to hold the 2007 Seacoast Safari for CF on Saturday, July 21, 2007 ***(Anticipated action – move to refer to the City Manager with power)***
- H. Letter from Elisa Loeser, Student Council President and Mary Carey Foley, Student Council Adviser, requesting permission to hold Student Government Day 2007 on Wednesday, April 11, 2007 ***(Anticipated action – move to refer to the City Manager with power)***

IX. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Deborah Childs, John Paul Jones House Museum, requesting permission for the Portsmouth Historical Society to borrow the A View of Portsmouth, NH from Freeman's Point painting from the Council Chambers for an exhibit being held June 1, 2007 through October 31, 2007
- B. Request from Farah's Special Occasion to place one A-frame sign in front of building located at 110 Fleet Street

X. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action

1. Planning Board Report Back on the Request of The Housing Partnership for an Access Easement on Bedford Way
2. Staff Recommendation and Report Back on Letter from Temple Israel
3. Report Back Re: Proposed Zoning Amendment Regulating Formula Businesses with the Historic District
4. Maxam Property Easement
5. Request to Renew Lease of Seacoast Area Lodge No. 2303 Order Sons of Italy in America
6. Update on Elderly and Disabled Persons Exemptions
7. Request to Dispose of Surplus Vehicles and Other Equipment
8. Request to Bring Back for First Reading Proposed Ordinance Amendments to Chapter 7

Informational Items

1. Reminder of Work Session Re: Capital Improvement Plan
2. Reminder of Joint Work Session between Planning Board and City Council
3. Reminder of Work Sessions Re: Re-use of Doble Reserve Center and Board and Commission Term Limits
4. Public Meeting Re: Raleigh Way Street Improvements Project
5. Read Across America
6. Invitation to Photo Exhibit Honoring New Hampshire National Guard Iraq Veterans
7. Notice of Seminar Re: Public Advocacy for Parents: How to Effectively Support Your Schools

B. MAYOR MARCHAND

1. Request for Memorial Tree
2. Appointments to be Considered:
 - Appointment of Elizabeth A. Shepard-Rabadam – Citywide Neighborhood Association
 - Appointment of Sandra Dika – Historic District Commission from Alternate to Regular Member

3. Appointments to be Voted:
 - Appointment of John R. Howe – Traffic & Safety Committee
 - Appointment of Richard G. Adams – Alternate to Conservation Commission
 - Appointment of Richard Smith – Peirce Island Committee
4. *Reports

C. COUNCILOR DWYER

1. *Action on Old Library Building Re-use

D. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the January 11, 2007 meeting
2. Parking Committee Action Sheet and Minutes of the January 11, 2007 meeting

XI. MISCELLANEOUS/UNFINISHED BUSINESS

XII. ADJOURNMENT [AT 10:00PM OR EARLIER]

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

(*Indicates verbal report)

INFORMATIONAL ITEMS

1. Conservation Commission minutes of the November 8, 2006 and December 13, 2006 meetings
2. Historic District Commission minutes of the December 6, 2006 and December 13, 2006 meetings
3. Zoning Board of Adjustment minutes of the December 19, 2006 meeting
4. Letter from Diana Meader regarding the good service provided at Spinnaker Point Athletic Center
5. 2006 Attendance Records for various Boards and Commissions

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: January 19, 2007
To: Honorable Mayor Steve Marchand and City Council Members
From: John P. Bohenko, City Manager
Re: City Manager's Comments on January 22, 2007 City Council Agenda

6:00 p.m. – Non-meeting with counsel.

For details on this matter, please refer to the confidential envelope inserted in the inside pocket of your binder.

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Presentation:

1. **Interim Report from Mayor's Blue Ribbon Committee on Building Re-use Re: Disposition of Old Library.** On Monday evening, Heather Hurtt, Chair of the Mayor's Blue Ribbon Committee on Building Re-use will give a presentation on the old Library listening session held on January 9th. The presentation will summarize input from the five break-out groups and include a recommendation for going forward. For background on the old Library and the restrictions associated with its future use, you can review the Committee's power point presentation made at the January 9th listening session by accessing the following city website link:

<http://www.cityofportsmouth.com/mayor/Oldlibrarylisteningsessions.pdf>

Also this matter appears under Councilor Chris Dwyer's name for action.

Acceptance of Grants/Donations:

1. **Acceptance of Grant for the Cities Readiness Initiative.** The Portsmouth Area Emergency Planning Team/All Hazards Health Region has been notified by the State of New Hampshire's Department of Health and Human Services that we are receiving funding to support the goals of the Cities Readiness Initiative (CRI). Rockingham and Strafford Counties are eligible to receive CRI funds based on the Federal government's definition of the Boston Metropolitan Statistical Area (MSA). The primary goal of the

CRI is to minimize the loss of lives during a catastrophic public health emergency by providing antibiotic medications to 100% of the MSA's identified population within a 48-hour time frame. This will be accomplished by improving the operational capability to receive, distribute and dispense Strategic National Stockpile (SNS) assets.

The funding in the amount of \$4,093.00 is to be expended by June 30, 2007 and will be directed to activities related to planning for or operationalizing our Point of Dispensing (POD) clinic within a 48-hour timeframe. No local matching funds are required. These grant funds were awarded to the State from the Federal government via the Centers for Disease Control and amounts are distributed by the Division of Public Health Services on a per capita basis to those towns in our region (Portsmouth, New Castle, Rye, North Hampton, Greenland and Newington).

I would recommend the City Council vote to authorize the City Manager to accept and expend these funds from the New Hampshire Department of Health and Human Services for the purpose of operationalizing our POD clinic.

Consent Agenda:

1. **Donations to the Coalition Legal Fund.** Attached are copies of the following checks donating funds to the Coalition Legal Fund, which will be utilized to continue our fight to eliminate the statewide property tax.

- Town of New Castle for \$500.00
- Town of Hampton Falls for \$1,000.00
- Town of Lincoln for \$1,000.00
- Town of Moultonborough for \$1,000.00
- Town of Newington for \$1,000.00

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

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

- Jill H. Breneman for \$50.00
- PM Campbell for \$100.00
- O. L. & Sharon S. Thagard for \$100.00
- Roberta O. & Barry P. Finkelstein for \$100.00
- Anne Rouse & Matthew P. Sudduth for \$250.00

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 VIII of the Agenda.

City Manager's Items Which Require Action:

1. **Planning Board Report Back on the Request of The Housing Partnership for an Access Easement on Bedford Way.** At the City Council meeting on March 6, 2006, the Council voted to refer a February 7, 2006 letter from Attorney Michael Donahue regarding a request for an access easement for property located on Bedford Way to the Planning Board for a report back. The Planning Board subsequently considered the easement issue, along with a related zoning request and reported back to the Council on both of these items. Additional background information on the easement request and the Planning Board's report back on same are provided below.

At the time Bethel Assembly of God leased the old Atlantic Heights school building, which is now occupied by the Portsmouth Housing Authority's Bedford Way senior housing project, the City granted an easement for a driveway to the building across City-owned land. The Portsmouth Housing Authority's Bedford Way senior housing project in Atlantic Heights now benefits from that easement. The PHA, which maintains the driveway to their senior housing complex, is the entity with the most interest in the status and use of the driveway. If The Housing Partnership's easement request were to be granted, the PHA and The Housing Partnership would have a shared easement across a 155.91-foot by 41.89-foot area of City-owned land on what is now known as Bedford Way, which is a private way. In addition, if the easement request were granted, The Housing Partnership would have an exclusive easement across a 68-foot by 60-foot area of City-owned land.

At their meeting of October 19, 2006, the Planning Board voted to favorably recommend The Housing Partnership's easement request with the following recommended stipulations:

1. That the Portsmouth Housing Authority endorses the joint use concept as proposed by this proposal for use in a workforce housing project;
2. If the PHA endorses this concept, that a Memorandum of Understanding should be prepared that formalizes their partnership in this matter in terms of future use/liability/ maintenance/etc.
3. That as the driveway would not be built to municipal standards that it is not to be accepted as a municipal street;
4. That the easement should be amended so as to include these matters and shall be approved as to content and form by the Legal Department; and,
5. That all necessary easements and related materials shall be recorded in the Registry of Deeds.

The Council voted at the November 13, 2006 meeting to postpone action and discussion on the Planning Board's report back until taking final action on The Housing Partnership's rezoning request.

At its last meeting, the City Council voted to authorize the City Attorney to draft an easement for this meeting. However, the City Attorney has been contacted by Attorney Sharon Somers on behalf of The Housing Partnership. She advises him that The Housing Partnership has not yet reached agreement with the Portsmouth Housing Authority. Therefore, The Housing Partnership is unable to satisfy stipulation number one as outlined. For this reason, The Housing Partnership is not in a position to negotiate the Bedford Way easement at the present time. *Consequently, on behalf of The Housing Partnership, Attorney Somers is requesting that the City Council postpone action on the Bedford Way easement until such time as The Housing Partnership notifies the City Manager that it is appropriate for the easement to be put before the City Council (see attached letter).*

In order to accommodate the request of The Housing Partnership, an appropriate Motion would be, "to postpone action on the Bedford Way easement until such time as The Housing Partnership has requested that the City Manager place the easement back before the City Council."

2. **Staff Recommendation and Report Back on Letter from Temple Israel.** As requested, I have attached a report back and recommendation from City staff, as well as a copy of the letter from Mitch Manin, President, Temple Israel Board of Directors, regarding a request for a waiver of building permit fees.

The City Council may wish to consider the adoption of the recommendation by City staff.

3. **Report Back Re: Proposed Zoning Ordinance Amendment Regulating Formula Businesses with the Historic District.** As you will recall at the December 4th City Council meeting, the Council referred the attached proposed ordinance amendment regulating formula businesses within the Historic District, to the Planning Board for report back. Attached is a memorandum from David Holden, Planning Director, regarding this matter.

The City Council has the following three actions available:

- 1) *Accept the report of the Planning Board;*
 - 2) *Schedule first reading on the Formula Business Ordinance; or*
 - 3) *Vote to table indefinitely.*
4. **Maxam Property Easement.** As you know in December of 2005, the City acquired the Maxam Property made up of three parcels of land off of Coach Road in the southernmost part of the City. The City expended \$25,000.00 from its conservation fund, the NH Coastal Program provided \$45,000.00 for the purchase of this property through its Coastal Grants program and the Seacoast Land Trust provided the final \$5,000.00 for the total purchase price of \$75,000.00.

Originally, the property was to be purchased by the Seacoast Land Trust (SLT). SLT

wrote a grant application to the NH Coastal Program to purchase this property. However, it was determined they were not eligible recipients as a non-profit group. The City agreed to receive the property and provide a conservation easement to the Seacoast Land Trust. Due to exigent circumstances, the City acquired the parcel in advance of an approval from the Planning Board.

Attached is a copy of the language of the Conservation Easement, which if authorized by the City Council will be granted to the Southeast Land Trust of New Hampshire (The name of the newly combined Seacoast Land Trust and the Rockingham Land Trust) to ensure the property is held in conservation in perpetuity. Also, attached is a copy of an aerial map showing the location of the property.

I would recommend the City Council move to refer this matter to the Planning Board to provide a report back to the City Council approving the acquisition of this parcel and execution of the Conservation Easement Deed.

5. **Request to Renew Lease of Seacoast Area Lodge No. 2303 Order Sons of Italy in America.** Attached is a letter from the Seacoast Area Lodge No. 2303 Order Sons of Italy in America, requesting an extension to its lease, which is scheduled to expire on March 31, 2007 for property known as the Plains School House located at One Plains Avenue. 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 Plains School House. *I would recommend the City Council move to authorize the City Manager to extend the Lease with the Seacoast Area Lodge No. 2303 Order Sons of Italy in America for the property known as the Plains School House at One Plains Avenue, for a period of April 1, 2007 through March 31, 2008.*

6. **Update on Elderly and Disabled Persons Exemptions.** As you recall, last year the City Council took the following actions as it relates to elderly and disabled exemptions;
 1. Resolution #8-2006, adopted April 3, 2006, increased income limits for Elderly Exemptions from property tax to \$30,000 for a single taxpayer and \$37,000 for married taxpayers, maintaining asset limit at \$100,000.
 2. Resolution #9-2006, adopted May 1, 2006, increased income limits for Disabled Persons Exemption from property tax to \$30,000 for a single taxpayer and \$37,000 for married taxpayers, maintaining asset limit at \$100,000.

As you recall, at your April 3, 2006 City Council meeting, discussions took place which resulted in a request by the City Council to review this issue on an annual basis including both the income and asset limitations.

For your information, the Assessor's office mails a notification annually to all elderly and disabled persons who currently receive this exemption to update their application. By law, all new applicants must submit an application and required documentation by April 15th. This would be for assessments as of April 1, 2007, for the 2007 tax year or FY08.

If the City Council wishes to make any adjustments in these exemptions, it would require an amendment to these resolutions as well as a public hearing and majority vote of the City Council. It would be my suggestion that the City Council adjust these exemptions by 2% including asset limitations, which is the annual inflation rate from November 2005 through November 2006. I have attached for your information the tax impact of the elderly and disabled exemptions for FY07. Also attached are copies of the proposed resolutions.

Therefore, I would recommend the City Council move to authorize the City Manager to bring back for first reading at the February 12th City Council meeting the resolutions as presented. (This requires a public hearing and two readings with a majority vote.)

7. **Request to Dispose of Surplus Vehicles and Other Equipment.** The City currently has five (5) surplus vehicles for disposal. Also recommended is the disposal of a 1983 boat and boat trailer. (See attached list.) In the past, we have sold the surplus vehicles and other equipment through a sealed bid process to the highest bidder. According to City Ordinance, Section 1.505, property valued at \$500.00 or more must receive approval from the City Council prior to bidding. *I would recommend the City Council move to authorize the City Manager to dispose of surplus vehicles and other equipment by the sealed bid process.*
8. **Request to Bring Back for First Reading Proposed Ordinance Amendments to Chapter 7.** Attached is a memorandum from City Attorney Robert Sullivan and a copy of proposed ordinance amendments to Chapter 7 as endorsed by the Parking Committee, and also an ordinance amendment to Chapter 7 as identified by Jon Frederick Parking Manager, regarding the creation of a one-hour parking zone on Chatham Street.

I would recommend the City Council move to authorize the City Manager to bring back for first reading at the February 12, 2007 City Council meeting the ordinance amendments as submitted.

Informational Items:

1. **Reminder of Work Session Re: Capital Improvement Plan.** Just a reminder that the work session regarding the Capital Improvement Plan (CIP) is scheduled for Monday, January 29, 2007 at 6:30 p.m. in City Council Chambers. (See attached agenda.)
2. **Reminder of Joint Work Session between Planning Board and City Council.** On Monday, February 1, 2007, a joint work session between the Planning Board and City Council will be held at 6:30 p.m. in City Council Chambers, regarding the height issue. (See attached public meeting notice.)
3. **Reminder of Work Sessions Re: Re-use of Doble Reserve Center and Board and Commission Term Limits.** Just a reminder of two work sessions scheduled for Monday, February 5, 2007 in City Council Chambers, beginning at 6:30 p.m. regarding Re-use of the Doble Reserve Center and at 7:00 p.m. regarding Board and Commission Term Limits.

4. **Public Meeting Re: Raleigh Way Street Improvements Project.** For your information, attached is a copy of a notice concerning a public meeting scheduled for Wednesday, January 24, 2007 at 7:00 p.m. in Conference Room A, regarding a presentation and discussion of the Raleigh Way design plan and one-way neighborhood traffic circulation plan.
5. **Read Across America.** For your information, Linda Marconi, Chairperson for Read Across America, will be attending the City Council meeting on Monday, February 12, 2007, to give a presentation to the City Council regarding Read Across America, which is scheduled for Friday, February 23, 2007. Ms. Marconi will be accompanied by children from Little Harbour School who will sing a song about Read Across America.
6. **Invitation to Photo Exhibit Honoring New Hampshire National Guard Iraq Veterans.** The Mayor requested that I forward the attached invitation from Diane Stradling to City Council members, regarding an upcoming opening of Bob LaPree's photo exhibit honoring New Hampshire National Guard Iraq Veterans at the Tradeport, 320 Corporate Drive on Monday, January 22, 2007, at 1:30 p.m.
7. **Notice of Seminar Re: Public Advocacy for Parents: How to Effectively Support Your Schools.** Dr. Robert Lister, Superintendent of Schools, has requested that I forward the attached notice of a seminar, to be held on February 12, 2007 at Portsmouth High School Little Theater from 4:30 to 7:30 p.m., light dinner provided, regarding "Public Advocacy for Parents: How to Effectively Support Your Schools".