

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, APRIL 16, 2007 TIME: 7:00PM

- 6:00PM – WORK SESSION WITH LEGISLATIVE DELEGATION

AGENDA

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

PRESENTATIONS

1. Presentation to Fire Chief Re: Certification
2. Announcement of the New Poet Laureate

PROCLAMATION

1. Poet Laureate

V. ACCEPTANCE OF MINUTES – APRIL 4, 2007

VI. PUBLIC COMMENT SESSION

VII. APPROVAL OF GRANTS AND DONATIONS

- A. Acceptance of Donation to the Fire Department from Wal-Mart - \$1,000.00
- B. Acceptance of Cities Readiness Initiative Funds Grant - \$4,442.00
- C. Acceptance of FY 2007-2008 CDBG Grant - \$672,397.00

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Third and final reading of Ordinance amending Chapter 7, Article IX, Section 7.901 – Penalties, Forfeiture and Separability - increasing fines listed under Item A and F of Section 7.901 - Penalties
- B. Third and final reading of Ordinance amending Chapter 7, Article XI, Section 7.1100 – Speed Limits sub-section B – Speed Limit 20 MPH by the addition of Peirce Island Road
- C. Third and final reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking sub-section A by the addition of Peirce Island Road: both sides of the street from most easterly access of the City pool to the access/egress of the sewer treatment plant

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Renewal Request for Sidewalk Obstruction Licenses from the following businesses with no changes from last year
- Serendipity – 1 A-frame sign

(Anticipated action – move to refer to the City Manager with power)

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Philip Pettis, Market Square Steeple Fund, requesting permission to hold a ribbon-cutting ceremony on May 20, 2007 at the North Church from 11:30 a.m. – 2:00 p.m.
- B. Letter from Barbara Rita Jenny requesting permission for a sidewalk obstruction permit for a public art presentation on April 28, 2007 from 8:00 p.m. – 10:00 p.m.
- C. Letter from Susan Turner, Rockingham County Community Resource Network, Inc. requesting permission to hold a memorial service for friends who have died and who have suffered homelessness on May 18, 2007 at 10:30 a.m. – 12:00 p.m. at Prescott Park

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items which require Action under other sections of the Agenda

1. Third and Final Reading of Proposed Ordinance Amendments:
 - 1.1 Third and Final Reading of Ordinance amending Chapter 7, Article IX, Section 7.901 – Penalties, Forfeiture and Separability – increasing fines listed under Item A and F of Section 7.901 – Penalties ***(Action on this matter should take place under Section IX of the Agenda)***
 - 1.2 Third and Final Reading of Ordinance amending Chapter 7, Article XI, Section 7.1100 – Speed Limits sub-section B – Speed Limit 20 MPH by the addition of Peirce Island Road ***(Action on this matter should take place under Section IX of the Agenda)***
 - 1.3 Third and Final Reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking sub-section A by the addition of Peirce Island Road: both sides of the street from most easterly access of the City pool to the access/egress of the sewer treatment plant ***(Action on this matter should take place under Section IX of the Agenda)***

City Manager's Items Which Require Action

1. Planning Board Report Re: Offer of Land Located Adjacent to the Municipal Complex and off the South Mill Pond
2. Request to Adopt Resolution to Realign and Re-designate the Seacoast and Salem-Plaistow-Windham Metropolitan Planning Organizations (MPO)
3. Motor Vehicle Municipal Agent
4. Report Back from Planning Board Regarding Proposed Amendments to the 1995 Zoning Ordinance – establishing a Process by which to Consider a Non-residential Planned Unit Development Type Use within an Office Research Zoning District

Informational Items

1. Public Hearing on April 18th Re: FY 2008 City Budget and Press Release Re: FY 2008 Budget on City's Website
2. Quarterly Report on Chamber/City Partnership
3. Student Intern for Greenhouse Gas Emissions Analysis
4. Information Request Re: Peirce Estate

B. MAYOR MARCHAND

1. Appointment to be Considered:
 - Gary Lowe – Alternate to Cable Television and Communications Commission
2. Appointment to be Voted:
 - John Leith – Portsmouth Housing Authority
3. Update on Election Finance Ordinance
4. *Reports

XII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

(*Indicates verbal report)

INFORMATIONAL ITEMS

1. Historic District Commission minutes of March 14, 2007 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: April 12, 2007

To: Honorable Mayor Steve Marchand and City Council Members

From: John P. Bohenko, City Manager

Re: City Manager's Comments on April 16, 2007 City Council Agenda

6:00 p.m. – Work Session

1. **Legislative Delegation Work Session.** The City Council will be conducting a work session with the City's Legislative Delegation on Monday evening at 6:00 p.m. in the Eileen Dondero Foley Council Chambers. The following items will be discussed:
 1. The New Hampshire Retirement System.
 2. The Pease Development Authority & The Port.
 3. Education funding.
 4. Various legislation.

Presentation:

1. At Monday's City Council meeting, Fire Chief Christopher LeClaire will be presented with the formal certification as Chief Fire Officer Designation by Director Rick Mason who is a member of the 9-person Commission on Professional Credentialing.
2. Paula Rais will make the announcement to present the new Poet Laureate.

Acceptance of Grants/Donations:

1. **Acceptance of Donation to the Fire Department.** Attached is a copy of a check in the amount of \$1,000.00 from Wal Mart donating funds to the Fire Department.

I would recommend that the City Council approve and accept the donation to the Fire Department, as listed. Action on this matter should take place under Section VII of the Agenda.

2. **Acceptance of Cities Readiness Initiative Funds.** As you may recall, the Portsmouth All Hazards Health Region under the direction of the Portsmouth Area Emergency Planning Team and Fire Chief Christopher LeClaire, was awarded \$4,093.00 for Phase I Cities Readiness Initiative (CRI) Funds to set up a points of distribution (POD) in our region.

The primary goal of the CRI funds is to minimize the loss of lives during a catastrophic public health emergency by providing antibiotic medications to 100% of the All Hazards Health Region'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.

Phase II CRI funds are now available in the amount of \$4,442.00. This grant is to be expended by December 31, 2007 and will be directed to activities related to planning for or operationalizing the regions' Point of Dispensing (POD) clinics 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 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 POD clinics. Action on this matter should take place under Section VII of the Agenda.

3. **Acceptance of FY 2007-2008 CDBG Grant.** U.S. Housing & Urban Development has informed us that we can anticipate receiving a Community Development Block Grant (CDBG) grant of \$672,397 next fiscal year. This represents a decrease of less than 1% (\$277) from this fiscal year's CDBG grant amount of \$672,674. Below is a brief overview of the approach HUD uses to calculate the annual CDBG entitlement grant.

HUD's CDBG grant allocation is based on a weighted formula that considers the age of each community's housing (50%); poverty levels (30%); and whether a community's population is increasing or decreasing (20%). Older housing stock, higher level of poverty, and greater decreases in population result in a more favorable funding allocation.

CDBG funds must be used to primarily 1) benefit individuals and families who earn very low, low or moderate incomes; 2) improve neighborhoods in which over 51% of the residents earn very low, low or moderate incomes; and 3) improve accessibility for people with disabilities.

Currently, Community Development staff is working with the CDBG Citizens Advisory Committee to draft the FY 2007-2008 Annual Action Plan and Budget for the CDBG program, which is required by HUD. A public hearing on the draft plan will be held on April 19, 2007 at 6:00 p.m. in Conference Room A.

I would recommend the City Council vote to accept a Community Development Block Grant from the U.S. Department of Housing and Urban Development in the amount of \$672,397. Action on this matter should take place under Section VII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. Third & Final Reading of Proposed Ordinance Amendments:

- 1.1 **Third & Final Reading of Ordinance amending Chapter 7, Article IX, Section 7.901 – Penalties, Forfeitures and Separability.** As a result of the April 4th City Council meeting, under Section VIII of the agenda, I am bringing back for third and final reading the attached proposed ordinance amendment to Chapter 7, Article IX, Section 7.901 – PENALTIES, FORFEITURES AND SEPARABILITY of the ordinances of the City of Portsmouth as recommended by the Parking Committee. The proposed amendment shall read as follows (deletions from existing language stricken; additions to existing language **bolded**; remaining language unchanged from existing):

Section 7.901: PENALTIES

- A. Any person violating any of the provisions of this Chapter or any rule or regulation made by the Chief of Police pursuant thereto, except the rules and regulations found in Section 7.105 and except those rules referenced in paragraph B, C, D, E, F and G of this provision, shall be subject to a fine or not more than ~~\$100~~ **\$300** upon conviction therefore in the Portsmouth District Court.
- F. Notwithstanding any other provision of this Ordinance, the owner or operator of a vehicle unlawfully parked in areas designated as reserved for parking for the walking disabled pursuant to Section 7.1200 shall forfeit to the City of Portsmouth within forty-eight (48) hours of such violation ~~\$100~~ **\$250**. In the event that the payment of the forfeiture is not made within thirty (30) days of the violation, then the forfeiture shall be in the amount of ~~\$150~~ **\$300**. In the event of failure to make such forfeiture, said person shall be subject to a fine of not more than ~~\$150~~ **\$300** upon conviction therefore in the Portsmouth District Court.

I would recommend the City Council move to pass third and final reading of the ordinance, as submitted. Action on this item should take place under Section VIII of the Agenda.

- 1.2 **Third & Final Reading of Ordinance amending Chapter 7, Article XI, Section 7.1100 - SPEED LIMITS.** As a result of the April 4th City Council meeting, under Section VIII of the agenda, I am bringing back for third and final reading the attached proposed ordinance amendment to Chapter 7, Article XI, Section 7.1100 – SPEED LIMITS sub-section B of ordinances of the City of Portsmouth by the addition thereto of the following as recommended by the Traffic & Safety Committee.

Section 7.1100 – Speed Limits

B Speed Limit: 20 MPH
Peirce Island Road

I would recommend the City Council move to pass third and final reading of the ordinance, as submitted. Action on this item should take place under Section VIII of the Agenda.

- 1.3 **Third & Final Reading of Ordinance amending Chapter 7, Article III, Section 7.330 - NO PARKING.** As a result of the April 4th City Council meeting, under Section VIII of the agenda, I am bringing back for third and final reading the attached proposed ordinance amendment to Chapter 7, Article III, Section 7.330 – NO PARKING sub-section A of ordinances of the City of Portsmouth as recommended by the Traffic & Safety Committee. The proposed amendment shall read as follows (deletions from existing language stricken; additions to existing language **bolded**; remaining language unchanged from existing):

Section 7.330: NO PARKING

- A. Parking shall be prohibited at all times in the following described streets and locations:
90. Peirce Island Access Road:
- a) northerly side, from a point 270 feet east of the intersection of Marcy Street and Mechanic Street easterly for a distance of 900 feet; and southerly side from a point 364 feet east of the intersection of Marcy Street and Mechanic Street easterly for a distance of 806 feet.
 - b) **both sides of the street from most easterly access to the City pool to the access/egress of the sewer treatment plant.**

I would recommend the City Council move to pass third and final reading of the ordinance, as submitted. Action on this item should take place under Section VIII of the Agenda.

City Manager's Items Which Require Action:

1. **Planning Board Report Re: Offer of Land Located Adjacent to the Municipal Complex and Off the South Mill Pond.** Attached is a memorandum from David Holden, Planning Director, regarding the Planning Board's recommendation to the City Council concerning the City's acquisition of a proposed 1,708 +/- square foot parcel of land abutting the Municipal Complex. Please note that there is no cost to the City for the acquisition of this parcel. See attached aerial map.

The following points should be noted in recommending the acceptance of this offer:

1. Although the parcel itself is limited in area, public ownership protects this area from future private development; and,
2. Public ownership of and public access to a waterfront area are public benefits.

On February 15th, the Planning Board granted Final Subdivision Approval to Guthrie and Elizabeth Swartz of 33 Johnson Court. This approval is subject to stipulations, with a primary one being that the City accept title to the aforementioned land parcel. In accordance with this stipulation, the Board and the Planning Department are recommending the following actions to the City Council:

- 1) That the City Council authorize the City Manager to accept this land offer;
- 2) That a deed transferring ownership to the City of this parcel shall be prepared, reviewed and approved as to content and form by the City Attorney;
- 3) That this parcel shall be consolidated with the Municipal Complex lot; along, with the filing in the Registry of all appropriate deeds and plats; and,
- 4) That upon acquisition of this parcel and pursuant to Article II, Section 10-202 (B) of the *1995 Zoning Ordinance* that the *2005 Zoning Map* shall be hereby amended so as to include this parcel within the Municipal district.

Therefore, I would recommend the City Council move to accept the Planning Board's recommendations, as presented.

2. **Request to Adopt Resolution to Realign and Re-designate the Seacoast and Salem-Plaistow-Windham Metropolitan Planning Organizations (MPO).** The Rockingham Planning Commission through the vote of its Commissioners, Seacoast MPO representatives and its advisory committee is requesting the Council's adoption of the attached *Resolution*. This same process is also being followed in other communities in Strafford County. This resolution is intended to allow for the realignment of the Seacoast MPO along existing regional planning commission boundaries. If a sufficient number of municipalities in both counties adopt this Resolution, the Seacoast MPO would then be re-designated by the State and Federal governments into two parts – one covering the Rockingham Planning Commission region and the other the Strafford Regional Planning Commission region. It is recommended that the Council adopt this Resolution.

The City is a member of the Seacoast MPO, which includes many but not all of the communities in Rockingham and Strafford Planning Commissions. Since approximately 1982, eligible communities have been collectively recognized as a unified urban area by the State and Federal governments. Accordingly, within this area, the expenditure of federal/state transportation funds must be coordinated through an involved review process. In a somewhat unusual situation, Rockingham Planning Commission's region includes communities from a second MPO that is centered on the Salem area (Salem-Plaistow-Windham MPO). At the local level, an MPO's designated planning agency is

usually the appropriate regional planning commission. So, in this instance, the Rockingham Planning Commission serves two MPOs and shares its responsibilities within the Seacoast MPO with the Strafford Regional Planning Commission.

For the Seacoast MPO, while this dual arrangement has functioned, it has created issues, including the following:

- Much duplication of effort as Seacoast MPO planning responsibilities are coordinated between two separate regional planning commissions;
- A large planning area causing difficulties both in coordinating MPO meetings with two sets of Commissioners and coordinating the preparation and dissemination of required work products;
- Dual chain of command with respect to MPO staffing; and,
- Differing priorities as each regional commission serves its local municipalities.

It is anticipated, that the successful completion of this Re-designation Process would increase efficiencies for both commissions and better integrate the MPO planning process with other regional planning functions. At its most fundamental, this change would not affect the amount of available funding to a municipality as the allocation process is not *currently* based on regional boundaries. In this matter, if the resolution is adopted by a sufficient number of local municipalities (based on population), the change will be supported by the Governor and U.S. Department of Transportation.

I would recommend the City Council move to adopt the Resolution to realign and re-designate the Seacoast and Salem-Plaistow-Windham Metropolitan Planning Organizations (MPO), as presented.

3. **Motor Vehicle Municipal Agent.** As you are aware, Dawn Dudo has been named the City's Revenue Administrator who is replacing Colleen Franzoso, who will be retiring from the City on April 30, 2007, after 33 years with the City.

In accordance with RSA 261:74-a, "with the approval of the governing body of a city or town and subject to the direction and approval of the commissioner, the director may appoint municipal officials as agents to issue, renew or transfer motor vehicle registrations".

Therefore, I am recommending the City Council appoint Dawn Dudo effective May 1, 2007, as the Motor Vehicle Municipal Agent for the City of Portsmouth. Upon this appointment, I will have the City Clerk prepare a letter and submit the application on behalf of Ms. Dudo, notifying the State of New Hampshire as such.

4. **Report Back from Planning Board Regarding Proposed Amendments to the 1995 Zoning Ordinance – establishing a Process by which to Consider a Non-residential Planned Unit Development Type Use within an Office Research Zoning District.** As you may recall, at the November 13, 2006 City Council meeting, the Council referred a rezoning request from Attorney Bernard Pelech, on behalf of his client, Smuttynose Brewery to the Planning Board for report back.

Attached is a memorandum from David Holden, Planning Director, outlining the Planning Board's favorable recommendation for the City Council to consider adopting the proposed amendments to Chapter 10 of the Zoning Ordinance of the City of Portsmouth (See Exhibit I). Also, attached is a copy of a map (See Exhibit II) depicting the areas where the Non-residential Planned Unit Development (PUD) could apply.

I would recommend the City Council move to schedule first reading at the next regular City Council meeting on May 7, 2007, as submitted.

Informational Items:

1. **Public Hearing on April 18th Re: FY 2008 City Budget and Press Release Re: FY2008 Budget on City's Website.** For your information, on Wednesday, April 18th, the City Council will hold a public hearing regarding the FY 2008 City Budget. Attached is a copy of the agenda and legal notice as well as a copy of a press release regarding the proposed FY2008 City Budget on the City's Website.
2. **Quarterly Report on Chamber/City Partnership.** At the April 6, 2007 Economic Development Commission (EDC) meeting, Marge Hubbard and Ginny Griffith, Business Development Manager of the Greater Portsmouth Chamber of Commerce, reported on tourism and business program activities respectively for the period January 1, 2007 to March 31, 2007. You will recall that these reports are part of the City of Portsmouth and Chamber of Commerce partnership for which the City Council has requested copies of the quarterly reports presented to the EDC. The reports are attached for your review.
3. **Student Intern for Greenhouse Gas Emissions Analysis.** As you know, last November the City Council voted to join the Cities for Climate Protection Campaign and make a good faith effort to undertake the Campaign's five milestones, which include a commitment to reducing greenhouse gas emissions. As you also know, the City succeeded in securing a \$3,000 grant from the Otto Fund of the New Hampshire Charitable Foundation – Piscataqua Region to hire a summer intern to assist with this work. The student internship was posted at a number of colleges and universities and several candidates were interviewed last month.

I am pleased to tell you that I have hired James Ryan, a senior Environmental Engineering student at the University of New Hampshire with a special interest in industrial processes as well as research experience with the UNH Biodiesel Group. Mr. Ryan will begin his 30 hour per week summer internship on May 21st and his first task will be to carry out a greenhouse gas emissions inventory to determine the source and quantity of current local greenhouse gas emissions. This data will then be used to develop an action plan to reduce emissions.

Mr. Ryan will be working closely with Environmental Planner Peter Britz and under the general direction of the Deputy City Manager. Guidance for the greenhouse gas emissions analysis will also be provided from the Committee on Sustainable Practices as needed, and the Committee will be provided with periodic updates on this work.

If you have any questions or would like additional information, I would be pleased to provide it.

4. **Information Re: Peirce Estate.** As requested by Councilor Chris Dwyer, attached is a memorandum from City Attorney Robert Sullivan, regarding the Peirce Estate. If you need any additional information, please let me know.