

# CITY COUNCIL MEETING

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

- 6:15PM – ANTICIPATED “NON-MEETING” WITH COUNSEL RE: LITIGATION – RSA 91-A:2 I (c)

## AGENDA

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

### PROCLAMATIONS

1. National Night Out
2. USS Hartford Commander – Captain Brookhart and Chief of the Boat Tom Wright

### PRESENTATION

1. Save the Old State House Committee – David Engel

### V. ACCEPTANCE OF MINUTES – JUNE 25, 2007

### VI. PUBLIC COMMENT SESSION

### VII. APPROVAL OF GRANTS AND DONATIONS

- A. Acceptance of Donation to the New Library Building Fund
  - Scott A. & Valencia L. Wilson - \$1,100.00 – Marie Wilson Memorial Plaque (*Second payment of pledge for memorial plaque*)

### VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Resolution Authorizing a Bond Issue of up to Three Million Six Hundred Fifty Thousand Dollars (\$3,650,000.00) for the Construction of a New Fire Station to Replace Fire Station 2

### IX. CONSENT AGENDA

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

- A. Acceptance of Donation to the Fire Fighter Monument
  - Eugene C. & Diana F. Hersey - \$25.00

***(Anticipated action – move to approve and accept the donation to the Fire Fighter Monument, as listed)***

- B. Acceptance of Donation to the Coalition Legal Fund
- Town of Carroll - \$1,000.00

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

- C. Letter from Janet Bourne, Arthritis Foundation, requesting permission to hold the annual Jingle Bell Run on Saturday, November 17, 2007 at 10:00 a.m. ***(Anticipated action – move to refer to the City Manager with power)***

## **X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Letter from Jill Harkness, Good Vibes, Life is Good Shoppe, requesting permission to hold a Pumpkin Festival in Prescott Park on Saturday, October 20, 2007
- B. Letter from Ken White, Waddell & Reed Financial Advisors, requesting permission to set up a specially equipped Waddell & Reed truck on Friday, August 10, 2007 from 8:00 a.m. – 7:00 p.m. to participate in supplying USO Care Packages to US troops overseas
- C. Letter from Attorney Malcolm McNeill, Jr., regarding request for a municipal shoreland exemption (RSA 483-B:12) for property at 99 Bow Street
- D. Request from John Tinios, Popovers on the Square, for a sidewalk obstruction license for the placement of 1 A-frame sign in front of establishment
- E. Request from Daniel Fenderson, Subway, for a sidewalk obstruction license for the placement of 2 tables and 12 chairs in front of establishment
- F. Request from Airial Sillanpaa, Chrisrial & Co. Fine Jewelry, for a sidewalk obstruction license for the placement of 1 A-frame sign in front of establishment
- G. Letter from Portsmouth School Board requesting an Architectural Feasibility Study for the Parrott Avenue site
- H. Letter from Sam Bennett & Alec Lager, Portsmouth Fair Trade Coalition, requesting permission to hold a benefit jazz concert and Fair Trade craft bazaar on Saturday, August 18, 2007 in the Vaughn Mall

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

### **A. CITY MANAGER**

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

1. Consideration of First Reading of Proposed Ordinance Amendments and Resolution:
  - 1.1 First Reading of Resolution Authorizing a Bond Issue of up to Three Million Six Hundred Fifty Thousand Dollars (\$3,650,000.00) for the Construction of a New Fire Station to Replace Fire Station 2 (**Action on this matter should take place under Section VIII of the Agenda**)
2. Letter from Waddell & Reed Financial Advisors (**Action on this matter should take place under Section X of the Agenda**)
3. Rooming House Ordinance (**Action on this matter should take place under Section XI C.1. of the Agenda**)

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

1. Report Back Re: Riverwalk – Proposed Land Conveyance between the City and DiLorenzo Real Estate, LLC
2. Report Back Re: Popover's
3. Request for Street Acceptance of Wholey Way
4. Request to Establish Public Necessity Hearing for the Route 33 Railroad Replacement Project
5. Acceptance of Deed Re: North Mill Pond Conservation Property

#### **Informational Items**

1. Municipal Election Filing Period
2. Busk Till Dusk

### **B. MAYOR MARCHAND**

1. Appointments to be Considered:
  - Brad Lown – Trustee of the Trust Fund
2. \*Reports

### **C. ASSISTANT MAYOR FERRINI**

1. \*Rooming House Ordinance

**D. COUNCILOR GRASSO**

1. Old State House (*Sample motion – move to endorse the efforts of the Save the Old State House Committee to find a location in Portsmouth for the reconstruction and renovation of the Old State House*)

**E. COUNCILOR DWYER**

1. Recognition of Board Service
2. City Recreation Fields

**F. COUNCILOR RAYNOLDS**

1. Green Building Costs and Financial Benefits
2. Defining the Use of the Term Spot Zoning

**G. COUNCILOR PANTELAKOS**

1. Request for Funding Re: African Burial Ground

**H. COUNCILOR SMITH**

1. Traffic & Safety Committee Action Sheet and Minutes of the June 14, 2007 and June 28, 2007 meetings
2. Parking Committee Action Sheet and Minutes of the June 14, 2007 meeting
3. \*Buy Local

**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 the May 9, 2007 meeting
2. Zoning Board of Adjustment minutes of the May 15, 2007 meeting
3. Planning Board minutes of the May 17, 2007 meeting
4. Site Review Technical Advisory Committee minutes of the June 5, 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:** July 12, 2007  
**To:** Honorable Mayor Steve Marchand and City Council Members  
**From:** John P. Bohenko, City Manager  
**Re:** City Manager's Comments on July 16, 2007 City Council Agenda

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6:15 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. **Save the Old State House Committee.** On Monday evening, David Engel, Chairman of the Old State House Committee, will be giving an update regarding the Committee's activities (see attached information under presentation). Also, the Committee is requesting that the City Council review and sign the attached letter to the New Hampshire Division of Historical Resources requesting their consideration of the location of the Old State House in the City of Portsmouth a high priority.

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

1. **Acceptance of Donation to the New Library Building Fund.** The Portsmouth Public Library Campaign Committee has received a donation in the amount of \$1,100.00 from Scott & Valencia Wilson to the New Library Building Fund for a memorial plaque in the Reading Room in memory of Marie Wilson. This is a second payment on a pledge accepted earlier by the City Council.

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

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

### **1. Consideration of First Reading of Proposed Ordinance Amendments and Resolution:**

- 1.1 **First Reading on Bonding Resolution Authorizing Bond Issue of up to Three Million Six Hundred Fifty Thousand Dollars (\$3,650,000.00) for the Construction of a New Fire Station to Replace Fire Station 2.** As a result of the action at the June 25th City Council meeting, under Section VIII of the agenda, I am bringing back for first reading the bonding resolution authorizing a bond issue of up to three million six hundred fifty thousand dollars (\$3,650,000.00) for the construction of a new fire station to replace Fire Station 2. If approved, the public hearing will be on August 6<sup>th</sup> and at that time I would ask that the Fire Commission along with representatives from the Fire Station Building Committee and the architect be in attendance to make a presentation on this proposal. As pursuant to the Capital Improvement Plan (CIP) adopted by the City Council, the amount requested for the bonding resolution is \$3,650,000.00. See attached CIP element sheet as well as the Fire Station Building Program Report.

For your information, the Fire Station Building Committee has scheduled a meeting for Tuesday, July 17, 2007, at 6:30 p.m., at the Station 1, Training Room.

As you are aware, bonding resolutions require only two readings and a two-thirds vote is required of the City Council for passage.

*I would recommend that the City Council move to pass first reading to authorize bonding in the amount of three million six hundred fifty thousand dollars (\$3,650,000.00) for the construction of a new fire station to replace Fire Station 2 and schedule a public hearing and adoption at the August 6<sup>th</sup> City Council meeting. Action on this item should take place under Section VIII of the Agenda.*

2. **Letter from Waddell & Reed Financial Advisors.** For your information, City staff and I met with Ken White of Waddell & Reed Financial Advisors, regarding the attached request to set up a specially equipped Waddell & Reed truck on Friday, August 10, 2007 from 8:00 a.m. to 7:00 p.m., for the 70 Year Celebration Tour, to participate in supplying USO Care Packages to US Troops overseas. Also, attached is a copy of a map indicating the proposed location of the vehicle on Wright Avenue.

*I would recommend the City Council move to refer the request from Waddell & Reed Financial Advisors to the City Manager with power. Action on this item should take place under Section X of the Agenda.*

3. **Rooming House Ordinance.** As a result of the action at the May 7<sup>th</sup> City Council meeting, attached under Assistant Mayor Ferrini's name is a draft ordinance that was requested to come back regarding the creation of a rooming house ordinance. At the request of Assistant Mayor Ferrini, this ordinance addresses the safety in our community with respect to activities in the Islington Street area.

*I would recommend that this ordinance be brought back for first reading at the August 6<sup>th</sup> City Council meeting and that action be taken under Assistant Mayor Ferrini's name.*

### ***Consent Agenda:***

1. **Acceptance of Donation to the Fire Fighter Monument.** The Portsmouth Fire Department has received a donation in the amount of \$25.00 from Eugene C. & Diana F. Hersey to the Fire Fighter Monument Fund.

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

2. **Acceptance of Donation to the Coalition Legal Fund.** Attached is a copy of a check from the Town of Carroll for \$1,000.00 donating funds to the Coalition Legal Fund, which 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 donation as listed, to be placed in the Coalition Legal Fund. Action on this item should take place under Section IX of the Agenda.*

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

1. **Report Back Re: Riverwalk – Proposed Land Conveyance between the City and DiLorenzo Real Estate LLC.** As you will recall, at the June 4<sup>th</sup> City Council meeting, the Council referred the proposed conveyance of interests in real estate between the City of Portsmouth and DiLorenzo Real Estate LLC, to the Planning Board for report back. This land conveyance is necessary to commence construction of the Riverwalk. Attached is a memorandum from David Holden, Planning Director, indicating that the Planning Board voted favorably at their June 21<sup>st</sup> meeting to recommend this conveyance.

*I would recommend the City Council move to accept the recommendation of the Planning Board and authorize the City Manager to execute the required documents for the conveyance of the property between the City and DiLorenzo Real Estate, LLC.*

2. **Report Back Re: Popover's.** At the May 21<sup>st</sup> City Council meeting, the Council voted to accept the City Manager's report back to conduct a pilot program until the end of June for the relocation of the tables and chairs as requested by John Tinios of Popover's on the Square. Attached is a copy of a memorandum from Jason Page, Zoning Officer, along with other materials regarding this matter. It appears that there is not a problem with the relocation of the tables and chairs, and I would recommend continuing this until the end of the year.

*Therefore, I would recommend that the City Council move to authorize the continuance of the relocation of the tables and chairs through the end of the year for Popover's on the Square.*

3. **Request for Street Acceptance of Wholey Way.** Attached are a memorandum from City Attorney Robert Sullivan and a letter from Henry Brandt, developer of Wholey Way, requesting the street acceptance of Wholey Way.

*I would recommend the City Council move to refer the aforementioned matter to the Planning Department and the Public Works Department for a report back to City Council.*

4. **Request to Establish Public Necessity Hearing for the Route 33 Railroad Replacement Project.** In order to proceed with the Route 33 Railroad Bridge Replacement Project, it will be necessary for the City Council to conduct a hearing to establish the public use and public necessity of this project. This hearing is a prerequisite to the taking of easements or other property interest by eminent domain should it become necessary to exercise those options. I would recommend that this hearing take place at your August 20<sup>th</sup> City Council Meeting, inasmuch as this necessity hearing requires a thirty (30) day notice. For details on this matter, please see the attached memorandum from Suzanne Woodland, Assistant City Attorney and Deborah A. Finnigan, City Transportation Engineer.

*Therefore, I would recommend that the City Council establish a public necessity hearing with respect to any property interest which the City must acquire for the Route 33 Railroad Bridge Replacement Project for its' August 20<sup>th</sup> City Council meeting.*

5. **Acceptance of Deed Re: North Mill Pond Conservation Property.** In connection with a subdivision plan recently approved by the Planning Board, the Emerson and Ruth McCourt Revocable Trust proposes to grant a parcel of land adjacent to the land acquired by the City from Olde Port Development Group, LLC last year to the City "for perpetual use as a public park". Attached please find a copy of the deed intended to accomplish that result as well as a plan of the land.

*I would recommend the City Council move to accept the deed from the Emerson and Ruth McCourt Revocable Trust and authorize the City Manager to execute all necessary documents.*



## ***Informational Items:***

1. **Municipal Election Filing Period.** For your information, attached is a memorandum from Kelli Barnaby, City Clerk, announcing the municipal election filing period for the November 6, 2007 Municipal Election commencing Monday, August 27, 2007 through Monday, September 10, 2007.
2. **Busk Till Dusk.** For your information, attached is a copy of the Busk Till Dusk performances list, to be held throughout the downtown on Saturday, July 21<sup>st</sup> and Sunday, July 22<sup>nd</sup> in accordance with the City Sidewalk Performer Guidelines.