

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, AUGUST 6, 2007 TIME: 6:00PM

- 6:00PM – WORK SESSION – PORTSMOUTH HISTORICAL SOCIETY RE: OLD LIBRARY RE-USE

AGENDA

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

- V. ACCEPTANCE OF MINUTES – JULY 16, 2007

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARING
 - A. RESOLUTION AUTHORIZING A BOND ISSUE OF UP TO THREE MILLION SIX HUNDRED FIFTY THOUSAND DOLLARS (\$3,650,000.00) FOR FY08 REPLACEMENT OF FIRE STATION 2

- VIII. APPROVAL OF GRANTS/DONATIONS
 - A. Acceptance of New Hampshire State Council on the Arts Grant - \$3,000.00
 - B. Acceptance of Donation from Andy Sherburne, Classic Curbing, Inc. of a Granite Sign for the Public Library

- IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES
 - A. First reading of Ordinance amending Chapter 9 - MISCELLANEOUS PUBLIC WELFARE by the addition of a new Article VIII entitled Boarding Houses
 - B. First reading of Ordinance amending Chapter 7, Article III, Section 7.335 – Use of Parking Lot Item D deleted in its entirety and amending Chapter 7, Article IX, Section 7.9 – Penalties, Forfeitures and Separability amending Section 7.901 by the addition of a new Item H – 72 Hour Parking Restrictions
 - C. Adoption 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 (**Please Note: A two-thirds vote is required for passage**)

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Donation to the Portsmouth Police Department for the PAL Boys Summer Basketball League
- The Portsmouth Police Relief Association - \$300.00

(Anticipated action – move to approve and accept the donation to the Portsmouth Police Department PAL Boys Summer Basketball League, as listed)

- B. Letter from Gail Bradbard, Cabot House, requesting permission to close the street adjacent to the Cabot House parking lot on Saturday, September 1, 2007 for the annual Tent Sale ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Carol Welsh and Ellen Stockmayer requesting permission to hold the second annual Pan Mass Challenge Kids Ride for the NH Seacoast area on Sunday, September 23, 2007 ***(Anticipated action – move to refer to the City Manager with power)***

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from John Dussi, Northern Tier Real Estate Acquisition & Development, LLC, requesting the City revoke the License Agreement for the greenhouse/solarium structure at 172 Hanover Street (The Sports Page) for proposed renovations to the building
- B. Letter from Mike Novak requesting permission to use the stage located at Vaughn Mall for a live acoustic performance and benefit for the NH Surfrider Foundation on Saturday, August 25, 2007 at 6:00 p.m. *(Rain date of August 26th)*
- C. Letter from Attorney Bernard Pelech regarding Heather and George Hurtt and Carol and David Arrington Properties at 59 and 69 Newcastle Avenue to construct a brick parking area adjacent to the front of their respective properties which would be located part upon the City right of way of Newcastle Avenue

XII. 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 Ordinance amending Chapter 9 - MISCELLANEOUS PUBLIC WELFARE by the addition of a new Article VIII entitled Boarding Houses ***(Action on this matter should take place under Section IX of the Agenda)***

- 1.2 First reading of Ordinance amending Chapter 7, Article III, Section 7.335 – Use of Parking Lot Item D deleted in its entirety and amending Chapter 7, Article IX, Section 7.9 – Penalties, Forfeitures and Separability amending Section 7.901 by the addition of a new Item H – 72 Hour Parking Restrictions (***Action on this matter should take place under Section IX of the Agenda***)
2. Public Hearing/Adoption:
 - 2.1 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 IX of the Agenda***)

City Manager’s Items Which Require Action

1. Acceptance of Easement Deed Re. St. John’s Masonic Association
2. Request to Establish Public Use and Necessity Hearing Re: Bartlett/Islington Streets Sewer Separation Project
3. Report Back from Planning Board Re: Non-Residential Planned Unit Development Ordinance

Informational Items

1. Report Back Re: Purchasing Local Vendors
2. Report Back Re: Sagamore Grove Road
3. Trial Closure of Chestnut Street Begins August 1st
4. Report Back Re: Recreation Fields
5. Update on Piscataqua Riverwalk
6. Update on Procurement Process for Architectural Services to Develop Design Alternatives for the Middle School
7. Report Back Re: City Council Relationship to Police Commission under the Municipal Charter

B. MAYOR MARCHAND

1. *Proposed Charter Amendment Re: Police Commission
2. Resignations
 - Jameson French – Trustee of the Trust Fund – effective August 15th or September 1st
 - Raymond Will – Planning Board – effective immediately
3. Appointments to be Considered:
 - Phyllis Eldridge – Trustee of the Trust Fund
 - Derek Durbin – Zoning Board of Adjustment (Alternate)

4. Appointments to be Voted:
 - Brad Lown – Trustee of the Trust Fund
 - Joseph Almeida – Historic District Commission (Alternate)
 - Suzy Greene – Blue Ribbon Dog Committee
5. *Report Back Re: Recognition of Board Services
6. *Report Back Re: Cruise Ship Committee
7. *Reports

C. 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***) (Tabled from the July 16, 2007 City Council meeting)

D. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the July 12, 2007 meeting
2. Parking Committee Action Sheet and Minutes of the July 12, 2007 meeting

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

(*Indicates verbal report)

INFORMATIONAL ITEMS

1. Conservation Commission minutes of the June 13, 2007 meeting
2. Historic District Commission minutes of the June 13, 2007 and June 20, 2007 meetings
3. Planning Board minutes of the May 10, 2007; June 7, 2007; June 21, 2007 and June 28, 2007 meetings
4. Site Review Technical Advisory Committee minutes of the July 3, 2007 meeting
5. Zoning Board of Adjustment minutes of the June 19, 2007 meeting
6. Letter from Dennis White requesting that light poles not be installed along the waterfront walkway on Newcastle Avenue

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: August 2, 2007

To: Honorable Mayor Steve Marchand and City Council Members

From: John P. Bohenko, City Manager

Re: City Manager's Comments on August 6, 2007 City Council Agenda

6:00 p.m. – Work Session:

1. **Portsmouth Historical Society Re: Old Library Re-Use.** On Monday evening at 6:00 p.m., the City Council will be conducting a work session with the Portsmouth Historical Society (PHS) regarding their proposed re-use of the Old Library.

The City received only one response to its Request for Proposals for ground lease of the Old Public Library, which was submitted by PHS. The organization proposes a collaborative re-use of the facility with the larger goal of creating “a new kind of museum of the city’s past and present with exhibits, digital multi-media and collaborative programming for both residents of the seacoast and out-of-town visitors to make far better use of the city’s many historical, arts and cultural opportunities.” The proposal envisions a venue for historic exhibits (including a memorial hall concept), cultural event ticketing, tourist programs and community meeting space opportunities. It also envisions potentially leasing the Benedict House to a local non-profit and incorporation of the remnants of the Old State House into a rebuilt connector between the Academy Building and the Benedict House.

While the proposal meets some of the submittal requirements, it fails to include the required project proforma demonstrating financial ability. In addition, the desired re-use implementation schedule is potentially problematic as the plan proposes to initially lease only a portion of the vacant building for \$1/year. In the proposal, the PHS requests additional dialogue with the City and potential collaborators regarding development finance and feasibility and a three-step phased development process spanning late 2007-2012. Because it was the only proposal received, it seems appropriate that the City Council have an opportunity to review the document and discuss how to move forward with the building complex. I have included a copy of the Portsmouth Historical Society’s

proposal for your review. Also on the inside cover of your packet is a folder of information provided by PHS.

As requested by the City Council, we have also invited representatives from the Old State House Committee as well.

For your information, attached is a copy of the proposal.

Acceptance of Grants/Donations:

1. **Acceptance of New Hampshire State Council on the Arts Grant.** Last week, the City received notification from the NH State Council on the Arts (NHSCA) that it had been awarded a \$3,000.00 Cultural Conservation Grant for work on the Blunt painting entitled "A View of Portsmouth from Freeman's Point."

On March 5, 2007, the City Council authorized the City Manager to enter into such agreements as necessary to implement the following plan:

1. To have the painting professionally appraised.
2. To have the painting professionally stabilized and cleaned by conservator Anthony Moore of York, Maine prior to being professionally removed from the Eileen Dondero Foley Council Chambers.
3. Following cleaning and stabilization, the painting will be professionally transported to the John Paul Jones House for the Portsmouth Historical Society Blunt exhibit scheduled for June 1- October 31, 2007.
4. Following the exhibit, the painting will be professionally transported back to the conservator to have the painting's backing repaired and ultimately returned to the City.

Items 1-3 have been successfully implemented. We have learned from the conservator that upon analysis of the painting, the backing does not need repair. We have reported this to the grantor and asked if the funds could be used for installation of appropriate lighting and security for the painting upon its return to the Eileen Dondero Foley Council Chambers. The representative from the NHSCA advised the City to proceed with the alternate use of grant funds and document it in the final report to the NHSCA. A copy of the grant award letter is attached for your review.

I would recommend that the City Council move to accept the NHSCA grant award and authorize the City Manager to oversee its administration. Action on this item should take place under Section VIII of the Agenda.

2. **Acceptance of Donation Re: Library Sign.** One of the final elements of the design and construction of the new Library is the granite sign to be installed along the driveway entrance. As the design team was developing plans for this sign, we contacted Andy Sherburne, a City resident and owner of Classic Curbing Inc. Not only has Andy worked

with our Architect, Tom Amsler, to locate a slab of granite to be used for the sign, but he has generously offered to donate it. In addition to providing the slab, he has had it prepared and carved with the name of the library. He has also provided the base for the sign and the hardware required for installation, all at no expense for the City.

A picture of the granite slab with the architect's rendering of the lettering is attached. The estimated value of materials and labor is in excess of \$25,000.

Later this week, weather permitting, the sign will be installed.

I would recommend that the City Council move to approve and accept the donation of a granite sign to the new Library, as listed. Action on this item should take place under Section VIII 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 of Ordinance amending Chapter 9 – Miscellaneous Public Welfare by the addition of a new Article VIII entitled Boarding Houses.** As a result of the July 16th City Council meeting, under Section IX of the Agenda, attached is a proposed ordinance amending Chapter 9 – Miscellaneous Public Welfare by the addition of a new Article VIII entitled Boarding Houses. As you will recall, Assistant Mayor Thomas Ferrini requested that this ordinance be brought forward to the City Council for first reading.

I would recommend that the City Council move to pass first reading and schedule a public hearing and second reading at the August 20th City Council meeting. Action on this item should take place under Section IX of the Agenda.

- 1.2 **First Reading of Ordinance amending Chapter 7, Article III, Section 7.335 - Use of Parking Lot Item D deleted in its entirety and amending Chapter 7, Article IX, Section 7.9 - Penalties, Forfeitures and Separability amending Section 7.901 by the addition of a new Item H - 72 Hour Parking Restrictions.** Attached under Section IX of the Agenda is a proposed amendment to Chapter 7, Article III, Section 7.335 – Use of Parking Lot Item D deleted in its entirety and amending Chapter 7, Article IX, Section 7.9 – Penalties, Forfeitures and Separability amending Section 7.901 by the addition of a new Item H – 72 Hours Parking Restrictions, as recommended by the Parking Committee.

I would recommend that the City Council move to pass first reading of the amended ordinance as recommended by the Parking Committee and schedule a public hearing and second reading at the August 20th City Council meeting. Action on this item should take place under Section IX of the Agenda.

2. **Public Hearing/Adoption:**

- 2.1 **Public Hearing/Adoption 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 July 16th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and adoption 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. 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, Fire Chief Christopher LeClaire and Winter Street Architects will give a short presentation prior to the public hearing.

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 adopt a bonding resolution 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. Action on this item should take place under Section IX of the Agenda.

Consent Agenda:

1. **Acceptance of Police Department Donation.** Attached under Section X 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 donation:

1. Donation of \$300.00 from The Portsmouth Police Relief Association in support of the PAL Boys Summer Basketball League.

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 donation to the Portsmouth Police Department, as listed. Action on this matter should take place under Section X of the Agenda.

City Manager's Items Which Require Action:

1. **Acceptance of Easement Deed Re: St. John's Masonic Association.** The City is preparing to remove and replace the brick sidewalks on a portion of Middle Street. The City is also preparing to make minor improvements to the intersection of Middle Street and Miller Avenue, which will impact slightly the property of St. John's Masonic Association. In order to facilitate the City's work, St. John's Masonic Association has executed an easement deed. The easement has been prepared by the City's Legal Department and needs Council approval. Attached is a copy of an aerial photo indicating the location of the easement deed. *I would recommend the City Council move to authorize the City Manager to accept an easement deed from St. John's Masonic Association with respect to municipal sidewalk and intersection improvements.*
2. **Request to Establish Public Use and Necessity Hearing Re: Bartlett – Islington Streets Sewer Separation Project.** In order to proceed with the Bartlett-Islington Streets Sewer Separation 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 interests by eminent domain should it become necessary to exercise that option.

As part of the City's on-going Combined Sewer Overflow - Long Term Control Plan (CSO-LTCP), the sewer which serves the Bartlett Islington area of the City requires replacement. In addition to upgrading the sewer, a new separate storm drain is necessary to reduce the Combined Sewer Overflows and to reduce flooding under the Bartlett Railroad Bridge. The existing combined sewer runs under the Papa Wheelie's Bicycle Shop, under the railroad tracks to the Ricci Lumber property. The existing combined sewer is collapsed in places reducing its capacity and potentially creating an emergency situation if it completely fails. This project is legally required as part of an US Environmental Protection Agency (EPA) administrative order.

This project entails replacement of existing combined sewer with separate drain lines and new sewer lines. The Bartlett-Islington Streets Project includes construction of a new storm drain, new sanitary sewer, and a limited amount of new water main. In addition to the utility work, the roads and sidewalk curbing will be rebuilt.

As with all of our water and sewer projects, the City works to leverage state funds to the maximum extent possible. The anticipated construction cost for this project is \$5,000,000.00. Sewer costs are eligible for 30% grants through the State Aid Grant program.

This City has held a series of meetings with abutting and impacted property owners. The majority of the concerns revolved around traffic flow, safety and access to the businesses during construction.

In order to construct this project, a number of temporary and permanent easements are necessary. The City staff has been working with property owners, and with the exception

of the Boston & Maine Corporation (Pan Am Railways), reached agreements for easements. Some of the agreements have already been finalized; others are being finalized. The City staff anticipates that it is only the easements from the railroad that will need to be taken by eminent domain. The easement areas relative to the Railroad property are shown on the attached plan.

The City must acquire rights from the railroad in order to replace the combined sewer pipe with new separate drain and sewer pipes as required by the EPA administrative order. Given that the railroad has not responded to repeated requests from the City's Legal Department to discuss an easement, moving forward to a hearing is necessary.

Staff anticipates that, given public notice requirements, a public necessity hearing would be held no earlier than the September 17th City Council meeting.

I would recommend that the City Council move to authorize the City Manager to bring forward a public use and necessity hearing with respect to property interests that the City must acquire for the Bartlett-Islington Streets Sewer Separation Project", at the September 17th City Council meeting.

3. **Report Back from Planning Board Re: Non-Residential Planned Unit Development Ordinance.** As you know, earlier this year, the Planning Board recommended adoption of a Non-Residential Planned Unit Development (NR-PUD) Ordinance that would apply as an overlay to the Office Research zoning district. The Council voted to deny the ordinance at its 2nd reading on May 21, 2007. Subsequently, the Council invited the Planning Board to a joint work session on June 25th, and following a detailed discussion between the two Boards, there was consensus from the City Council that the Planning Board should revise the ordinance to reflect key issues raised in the discussion and previous public input. Revisions incorporated in the ordinance include expansion of the sections describing landscape buffer requirements as they relate to residential zones; clarification of dimensional requirements (setbacks), which are now in tabular form; and deletion of the section that allowed the Planning Board to waive site review requirements. The Planning Board held a work session on July 19th to discuss these revisions and, at their regular meeting that followed, voted unanimously to recommend the Council adopt the revised NR-PUD Ordinance, which is attached along with a memo from Planning Director David Holden.

The City Council has the following two options to consider:

- 1) Schedule a first reading for the August 20th City Council meeting with changes as recommended by the Planning Board or,*
- 2) Place the report on file.*

Informational Items:

1. **Report Back Re: Purchasing Local Vendors.** As you recall at the July 16th City Council meeting, the Councilor Smith requested a report back regarding purchasing from local vendors. Attached is a memorandum from Finance Director Judie Belanger regarding this matter.
2. **Report Back Re: Sagamore Grove Road.** As you will recall at the June 25th City Council meeting, the attached letter from Walter Allen, regarding Sagamore Grove Road was referred to the City Manager and the Public Works Director for report back.

Sagamore Grove Road was last paved by the City in 1997 with a two inch tight binder course. As with all City Streets, it is included in the pavement management program that is maintained by the Public Works Department. This program is used to assist in prioritizing streets for maintenance and capital upgrades. The program looks at many factors that influence the life cycle of a street, including such information as traffic volumes, pavement condition, road drainage, curbing condition, etc. Each year, the City has approximately 25% of the streets (on a mileage basis) reevaluated to keep the program current.

Sagamore Grove Road was not included in the paving schedule that was approved in this year's capital budget. It is, however, on the list of streets to be reevaluated this year. Upon completion of this year's reevaluation, the program will be run and those streets requiring maintenance or capital upgrades will be addressed in the upcoming capital plan.

I will transmit this information to Walter Allen via letter.

3. **Trial Closure of Chestnut Street Begins August 1st.** For your information, attached is a news release regarding the trial closure of Chestnut Street beginning Wednesday, August 1st for a five-month period.
4. **Report Back Re: Recreation Fields.** As requested at the last meeting by Councilor Chris Dwyer, attached is a report on the City's recreation fields. The report contains information such as their name, location, condition, use, etc. There is also a chart comparing the number of fields in Portsmouth, Dover and Rochester. The report also includes an information sheet on new programs within the past ten years as well as the Recreation Department's recommendation for future field needs.
5. **Update on Piscataqua Riverwalk.** City staff has been in communication with the federal grant office that has oversight responsibility for the two HUD EDI grants, which total \$993,830.00. I am pleased to be able to report that we have until April 2010 to expend these funds for construction of the Riverwalk. Staff has also been actively pursuing the myriad of design, permitting, restaurant waste containment/disposal, lot line changes and license/lease/easement issues that need to be addressed prior to carrying out improvements to the City-owned parcel on Ceres Street that will be the entrance to the Riverwalk. I will update you as this work progresses.

6. **Update on Procurement Process for Architectural Services to Develop Design Alternatives for the Middle School.** As a result of the City Council's action at the July 16th meeting, we have been working with the School Department on the details of the procurement process for an architectural design team to develop design alternatives for the Middle School on Parrott Avenue. Based on input from staff and others, we will be following a Request for Qualifications (RFQ) process whereby we will obtain, through a public procurement process, submittals that detail the experience and credentials of architectural firms. The intent of this approach is to identify -- based on a review of the experience and qualifications of each design firm and their key project personnel and design portfolios -- a number of highly qualified firms and then invite those firms to submit full proposals. Specifically, those firms that are "short-listed" based on their qualifications will be asked to participate in a Request for Proposal (RFP) process under which they will submit additional information including scope of work, price and other detailed submittals specific to the work of assessing design alternatives for the Portsmouth Middle School on Parrott Avenue. I anticipate that within the next week we will have an RFQ available for distribution to the Council, the School Board and other interested parties.

7. **Report Back Re: City Council Relationship to Police Commission under the Municipal Charter.** As requested by the City Council at your last meeting, attached is a memorandum from City Attorney Robert Sullivan regarding the aforementioned matter.