

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, SEPTEMBER 17, 2007 TIME: 7:00PM

- 6:00PM – RECEPTION FOR FIRE DEPARTMENT SCULPTURE – PORTSMOUTH ROOM

## AGENDA

- I. CALL TO ORDER [7:00PM or thereafter]
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE – AMERICAN LEGION – POSTING OF THE COLORS

### MAYOR'S AWARDS

1. Little League 9-10 years old State Champions
2. Little League 11-12 years old State Champions

### PROCLAMATIONS

1. America Legion Color Guard
2. International Day of Peace
3. Daughters of the American Revolution Constitution Week
4. International Walk to School Day

- V. ACCEPTANCE OF MINUTES – AUGUST 20, 2007

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARINGS

- A. BARTLETT-ISLINGTON STREET SEWER SEPARATION PROJECT CONCERNING THE PUBLIC NECESSITY FOR OBTAINING PERMANENT EASEMENTS OR OTHER REAL PROPERTY INTERESTS IN CONNECTION WITH THE PROJECT
- B. ORDINANCE AMENDING CHAPTER 10, ARTICLE I, SECTION 10-102 – DEFINITIONS – LIGHT INDUSTRY AND CHAPTER 10, ARTICLE XV, BY THE CREATION OF A NEW SECTION 10-1508 ENTITLED NON-RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD-NR)

- VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant for Household Hazardous Waste Collection
- B. Acceptance of Public Service of New Hampshire Energy Rebate Re: Deer Street Pump Station

- C. Acceptance of Donation to the New Library Building Fund
- Barbara Louise Sylvester - \$950.00

**IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

- A. First reading of Ordinance amending Chapter 6, Article XIII, Section 6.1305 – Prohibited Conduct – Vendor – Vending shall be prohibited after midnight and before 7:00 a.m.
- B. First reading of Ordinance amending Chapter 16 by the addition of a new Article II entitled – Regulation of Discharges into Storm Water Drainage System
- C. First reading of Resolution Authorizing the Borrowing Through the State Revolving Fund (SRF) Loan Program, A Bond Issue and/or Notes for Costs Related to the Rye Line Pump Station Upgrade not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00)
- D. Adoption of Resolution Regarding Bartlett-Islington Street Sewer Separation Project Concerning the Public Necessity for Obtaining Permanent Easements or Other Real Property Interests in Connection with the Project
- E. Second reading of Ordinance amending Chapter 10, Article I, Section 10-102 – Definitions – Light Industry and Chapter 10, Article XV, by the creation of a new Section 10-1508 entitled Non-Residential Planned Unit Development (PUD-NR)
- F. Third and final reading of Ordinance amending Chapter 9 - Miscellaneous Public Welfare by the addition of a new Article VIII entitled Boarding Houses
- G. Third and final 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

**X. CONSENT AGENDA**

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

- A. Acceptance of Donations for the New Library Building Fund
- Constance and David Greer - \$500.00 (*Fulfills pledge*)
  - Daniel and Sofe Buckson - \$50.00

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

- B. Acceptance of Donation to the Cemetery Committee
- Franklin and Barbara Roth - \$100.00

***(Anticipated action – move to approve and accept the donation to the Cemetery Committee)***

- C. Acceptance of Police Department Donation
- Anonymous toward Patrol Gasoline Expenses - \$100.00

***(Anticipated action – move to approve and accept the donation to the Portsmouth Police Department, as listed)***

- D. Letter from Zhana Morris, The Music Hall, requesting permission for parking meter bags for the 2007-2008 Season ***(Anticipated action – move to refer to the City Manager with power)***

- E. Letter from Charles Lassen and Allen Nelson, Friends of the South End regarding Infrastructure Improvements to South End ***(Anticipated action – move to accept and place the letter on file)***

- F. Invitation from Peter Somssich inviting the City Council to participate in the Labor/Portsmouth Peace Treaty Parade on September 23, 2007 at 2:00 p.m. ***(Anticipated action – move to accept and place the letter on file)***

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

- A. Request from Pamela Bishop, The First National Bank of Ipswich, for a sidewalk obstruction license to place 1 A-frame sign in front of establishment
- B. Letter from Attorney Malcolm McNeill, Jr., McNeill, Taylor & Gallo, Re: Easement and License Plan for HarborCorp, LLC and City of Portsmouth
- C. Letter from Tom Hall, The Portsmouth Maritime Folk Festival, requesting permission to hold outdoor performances in Market Square on Sunday, September 30, 2007
- D. Letter from Melvin “Sandy” Trefethen Re: Fernald Court Water Access Resolution
- E. Letter from Lisa DeStefano, DeStefano Architects, requesting the City allow the exterior exit doors of 2 Ceres Street (Poco’s Cantina) be allowed to swing past the exterior wall 9 inches beyond the property line

## 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 6, Article XIII, Section 6.1305 – Prohibited Conduct – Vendor – Vending shall be prohibited after midnight and before 7:00 a.m. **(Action on this matter should take place under Section IX of the Agenda)**
  - 1.2 First reading of Ordinance amending Chapter 16 by the addition of a new Article II entitled – Regulation of Discharges into Storm Water Drainage System **(Action on this matter should take place under Section IX of the Agenda)**
  - 1.3 First reading of Resolution Authorizing the Borrowing Through the State Revolving Fund (SRF) Loan Program, A Bond Issue and/or Notes for Costs Related to the Rye Line Pump Station Upgrade not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) **(Action on this matter should take place under Section IX of the Agenda)**
2. Public Hearing/Adoption of Resolution:
  - 2.1 Public Hearing/Adoption of Proposed Resolution Re: Bartlett-Islington Street Sewer Separation Project Concerning the Public Necessity for Obtaining Permanent Easements or Other Real Property Interests in Connection with the Project **(Action on this matter should take place under Section IX of the Agenda)**
3. Public Hearing/Second Reading of Proposed Ordinance Amendments:
  - 3.1 Public Hearing/Second reading of Ordinance amending Chapter 10, Article I, Section 10-102 – Definitions – Light Industry and Chapter 10, Article XV, by the creation of a new Section 10-1508 entitled Non-Residential Planned Unit Development (PUD-NR) **(Action on this matter should take place under Section IX of the Agenda)**
4. Third and Final Reading of Proposed Ordinance Amendments:
  - 4.1 Third and Final 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)**

- 4.2 Third and Final 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)***

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

1. Establish Date for Recognition of Board Service Event
2. Polling Hours for November 6, 2007 Municipal Election
3. Acceptance of Management Agreement between City of Portsmouth and NH Department of Transportation Re: Scott Avenue Bridge
4. Letter from Portsmouth Housing Authority Re: Request for 99-year Lease Option on Lafayette School for the Development of Senior Housing
5. Letter from Mark McNabb, National Block II LLC, Re: License Agreement for 111 State Street
6. Report Back from Planning Board Re: Icon Realty, LLC Proposed Zoning Amendments

**Informational Items**

1. Report Back Re: Trustees of the Trust Fund MS-9 and MS-10
2. Islington Street Corridor Study

**B. MAYOR MARCHAND**

1. Appointment to be Considered:
  - Elias Abelson – Reappointment to Board of Library Trustees
  - John Rice – Appointment to Planning Board
2. \*Upcoming Appointment Vacancies for the month of October
  - 1 Member to the Board of Library Trustees
3. \*Holiday Parade 2007
4. \*Reports

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

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

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

**(\*Indicates verbal report)**

## **INFORMATIONAL ITEMS**

1. Planning Board minutes of the July 19, 2007 and July 26, 2007 meetings
2. Zoning Board of Adjustment minutes of the July 17, 2007 meeting
3. Historic District Commission minutes of the August 1, 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:** September 14, 2007

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

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

**Re:** City Manager's Comments on September 17, 2007 City Council Agenda

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***Presentation:***

1. **Fire Department Outdoor Sculpture.** On Monday evening, at 6:00 p.m., the Fire Department Outdoor Sculpture Committee has scheduled a reception prior to the City Council meeting in the Portsmouth Room, to unveil a model of the sculpture under consideration for the downtown Central Fire Station. The artist will be available to discuss his proposal. The Committee has invited members of the Fire Commission, the project donors and the news media. If you have any questions regarding this matter, please do not hesitate to contact me.

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

1. **Acceptance of Grant for Household Hazardous Waste Collection.** As you may recall, on May 21, 2007, the City Council authorized \$38,000.00 in Fiscal Year '08 Budget from the water & sewer enterprise fund for household hazardous waste collection events. Household hazardous waste collection events protect our water supply and reduce the potential of hazardous waste being dumped or inappropriately disposed. In the interest of protecting public health and ensuring household hazardous waste and unwanted household hazardous products are disposed of in an environmentally sound manner, the City has been hosting the collection event for more than ten years. Over 118,000 gallons of hazardous waste has been properly disposed of during that time.

In the spirit of being a good neighbor, the City provides the services to residents of Newington and Greenland also. An average of 350 families takes advantage of the collection events every year. The expenses are shared between the communities on a prorated basis - per vehicle per community.

A \$4,210.39 Department of Environmental Services (DES) Grant has been applied for and is available to the City to assist in managing the cost of these events. This grant supplements City funds already budgeted for the events.

*I would recommend the City Council move to accept and expend a \$4,210.39 DES grant for the purpose of household hazardous waste collection events and authorize the City Manager to execute any documents which may be necessary for this grant contract. Action on this item should take place under Section VIII of the Agenda.*

2. **Acceptance of Public Service of New Hampshire Energy Rebate Re: Deer Street Pump Station.** The Public Works Wastewater Division is in the process of completing the upgrades to Deer Street Pump station. The project included removing the existing two pump system and replacing it with a new three pump system which included energy efficient motors and variable frequency drives. City staff has worked with our consultant, Underwood Engineers and representatives from Public Service of New Hampshire to apply for and obtain \$83,278 in energy rebates towards the work on this project.

It is estimated that these improvements will save the City more than \$19,000 in annual energy costs. In addition to the energy efficiency improvements, the project included a significant upgrade to the aesthetics of the pump station, located at the intersection of Deer Street and Market Street. The \$2.6 million project was funded through the State Revolving Fund loan and a 30% State Aid Grant.

For your information, attached is a copy of the Greenpage, produced by Public Service of New Hampshire that outlines the economic as well as environmental benefits achieved on this project. Also, attached is a copy of a news release.

*I would recommend the City Council move to approve and accept an energy rebate in the amount of \$83,278.00 from Public Service of New Hampshire, as listed. Action on this item should take place under Section VIII of the Agenda*

3. **Acceptance of Donation to the New Library Building Fund.** The Portsmouth Public Library Campaign Committee has received a donation from Barbara Louise Sylvester in the amount of \$950.00 to the New Library Building Fund on the occasion of her 80<sup>th</sup> birthday to install an art hanging system in the Library.

*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 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 6, Article XIII, Section 6.1305 – Prohibited Conduct – Vendor.** As a result of the August 20<sup>th</sup> City Council meeting, under Section IX of the Agenda, I am bringing back for first reading the attached proposed ordinance amending Chapter 6, Article XIII, Section 6.1305 Prohibited Conduct – Vendor – vending shall be prohibited after midnight and before 7:00 a.m. For your information, attached is a copy of a letter from Ruth Nugent, regarding restrictions on night vending as well as a letter sent to vendors regarding this proposed ordinance. Also, attached is a copy of the City’s Vendor Ordinance. After discussion with various individuals, the best way to deal with this matter may be to prohibit vending times between midnight and 7:00 a.m.

*I would recommend the City Council move to pass first reading and hold a public hearing and second reading at the October 1st City Council meeting. Action on this item should take place under Section IX of the Agenda.*

- 1.2 **First Reading of Ordinance amending Chapter 16, by the addition of a new Article II, Regulation of Discharges into Storm Water Drainage System.** As a result of the August 20<sup>th</sup> City Council meeting, under Section IX of the agenda, I am bringing back for first reading the attached proposed ordinance amending Chapter 16, Article II, entitled – Regulation of Discharges into Storm Water Drainage System.

As you are aware, the National Pollutant Discharge Elimination System (NPDES) Phase II federal regulation is intended to reduce or eliminate discharges of contaminated water into municipal separate storm sewer systems that empty into local water bodies. The regulation required all Phase II communities, which includes the City of Portsmouth, to obtain a Storm Water Permit, develop a Storm Water Pollution Prevention Plan, and implement “Best Management Practices”.

Significant steps have already been taken to evaluate and respond to the NPDES Phase II regulations. The City, in conjunction with the Seacoast Storm Water Coalition and the NH Department of Environmental Services, created a manual of Standard Operating Procedures (SOPs) focusing on illicit discharge detection and elimination as well as pollution prevention and good housekeeping. Portsmouth’s employees were trained on these SOPs.

Further, the City contracted the services of Edwards & Kelcey to develop a Storm Water Master Plan. The Storm Water Master Plan will assist in prioritizing our efforts as we continue to implement programs and bring about storm water infrastructure improvements.

Task 4 of the Storm Water Master Plan required the contractor to review a draft ordinance prepared by the Legal Department and the Public Works Department titled, "Regulation of Discharges into Storm Water Drainage System". The ordinance is intended to provide additional protection to local natural resources and facilitate municipal compliance with federal and state environmental laws and regulations. The consultant has stated the proposed ordinance conforms to the requirements. This ordinance should be adopted by year-end to meet regulatory requirements.

*I would recommend the City Council move to pass first reading and hold a public hearing and second reading at the October 1st City Council meeting. Action on this item should take place under Section IX of the Agenda.*

- 1.3 **First Reading of Resolution Authorizing the Borrowing Through the State Revolving Loan Fund (SRF) Loan Program, A Bond Issue and/or Notes for Costs Related to the Rye Line Pump Station Upgrade not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00).** As a result of the August 20<sup>th</sup> City Council meeting, under Section IX of the agenda, I am bringing back for first reading a Resolution Authorizing the Borrowing through the State Revolving Loan Fund (SRF) Loan Program, A Bond Issue and/or Notes for Costs Related to the Rye Line Pump Station Upgrade not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00).

The City of Portsmouth Sewer Division is requesting authorization to participate in the State Revolving Loan Fund (SRF) program for the Rye Line Wastewater Pumping Station and Sewer System Improvements Project. The project has been identified in the Capital Improvement Plan and construction costs are estimated at \$1,500,000.00.

The State Revolving Loan Fund (SRF) program provides low-interest loans to municipalities for water, wastewater, and landfill closures projects. The current SRF interest rate for a twenty-year loan is 3.352%. Our submission of the loan application will secure the City's eligibility for current and future funding, if the project is considered eligible. In addition to this loan, the City is eligible to receive a 30% State Aid Grant on the eligible portions of this project. Based on current eligibility, we believe the entire project is eligible for grant reimbursement, reducing the construction cost to the rate payers by \$450,000.00 for a net cost of \$1.05 million.

The Rye Line Pumping Station is approximately 35 years old. Currently, the station sees wastewater flows beyond its capacity and needs to be upgraded to handle the projected future flows. The 2005 "Analysis of Infiltration and Inflow to the Rye Line Pumping Station," prepared by CMA Engineers, Inc., and the "Analysis of Rye Line Pumping Station and Downstream Sewer Capacity Requirements," prepared by CMA Engineers, Inc., December 2005 strongly recommended the City undertake improvements to the pumping station.

The Rye Line Pumping Station Upgrades will replace pumping equipment, motors and motor drives with new energy efficient equipment, as well as upgrade the electronic controls and emergency generator. In addition to aged equipment, the current pumping station is subject to periodic flooding from the adjacent wetland. This upgrade will raise the pumping station's floor elevation to a height above the flood elevation. Finally, this project will include upgrades to approximately 4,000 feet of leaking sewer pipe which is taking up capacity and contributing to sewerage overflows at the pumping station.

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 the City Council move to pass first reading to authorize bonding in the amount of not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) the Rye Line Pumping Station Upgrades and schedule a public hearing and adoption at the October 1st City Council meeting. Action on this item should take place under Section IX of the Agenda.*

## 2. **Public Hearing/Adoption of Proposed Resolution:**

- 2.1 **Public Hearing/Adoption of Proposed Resolution Re: Bartlett-Islington Street Sewer Separation Project Concerning the Public Necessity for Obtaining Permanent Easements or Other Real Property Interests in Connection with the Project.** As a result of the August 6<sup>th</sup> City Council meeting, under Section VII of the Agenda, I am bringing back for a public hearing to establish the use and public necessity and adoption of a resolution for the Bartlett-Islington Street Sewer Separation 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 Streets 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. 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.

For your information, City staff will be making a five minute presentation prior to the public hearing regarding this issue.

*I would recommend the City Council move to adopt the aforementioned Resolution, as submitted. Action on this item should take place under Section IX of the Agenda.*

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

- 3.1 **Public Hearing/Second Reading of Ordinance amending Chapter 10, Article I, Section 10-102 – Definitions – Light Industry and Chapter 10, Article XV, by the creation of a new Section 10-1508 entitled Non-Residential Planned Unit Development (PUD-NR).** As a result of the August 20th City Council meeting, under Section IX of the Agenda, I am bringing back for public hearing and second reading the attached proposed ordinance amending Chapter 10, Article I, Section 10-102 – Definitions – Light Industry and Chapter 10, Article XV, by the creation of a new Section 10-1508 entitled Non-Residential Planned Unit Development (PUD-NR). 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 second reading on May 21, 2007. Subsequently, the Council invited the Planning Board to a joint work session on June 25<sup>th</sup>, 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 19<sup>th</sup> 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.

City staff will make a presentation prior to the public hearing regarding this issue.

*The City Council may move to pass second reading and hold a third and final reading at the October 1<sup>st</sup> City Council meeting. Action on this item should take place under Section IX of the Agenda.*

4. **Third and Final Reading of Proposed Ordinance Amendments:**

- 4.1 **Third and Final Reading Ordinance amending Chapter 9 – Miscellaneous Public Welfare by the addition of a new Article VIII entitled Boarding Houses.** As a result of the August 20<sup>th</sup> City Council meeting, under Section IX of the Agenda, I am bringing back for third and final reading the attached proposed ordinance amending Chapter 9 – Miscellaneous Public Welfare by the addition of a new Article VIII entitled Boarding Houses. For your information, the City Council amended the ordinance to add a section 9.801 Definition “more than three rooms”. As you will recall, Assistant Mayor Thomas Ferrini requested that this ordinance be brought forward to the City Council for consideration and action.

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

- 4.2 **Third and Final 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.** As a result of the August 20<sup>th</sup> City Council meeting, under Section IX of the Agenda, I am bringing back for third and final reading the attached 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 third and final reading of the amended ordinance, as submitted. 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.** The Portsmouth Public Library Campaign Committee has received the following donations to the New Library Building Fund.

- Constance and David Greer for \$500.00 (This fulfills the pledge made during the capital campaign.)
- Daniel and Sofe Buckson for \$50.00.

*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. **Acceptance of Donation to the Cemetery Committee.** The Mayor's Blue Ribbon Cemetery Committee has received a donation in the amount of \$100.00 from Franklin and Barbara Roth.

*I would recommend that the City Council approve and accept the donation to the Cemetery Committee as listed. Action on this matter should take place under Section X of the Agenda.*

3. **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 \$100.00 in cash given anonymously toward patrol gasoline expenses.

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. **Establish Date for Recognition of Board Service Event.** As you will recall, at the August 6<sup>th</sup> City Council meeting, the Mayor announced that a Recognition of Board Service event will take place annually in the fall to honor those individuals that are serving and have resigned on the City's Boards and Commissions. I am requesting that the City Council consider establishing this event on Wednesday, November 28, 2007. *Therefore, I would recommend the City Council move to establish Wednesday, November 28, 2007 for the Recognition of Board Service Event.*

2. **Polling Hours for November 6, 2007 Municipal Election.** Attached is a memorandum from City Clerk Kelli L. Barnaby, recommending that the polling hours for the Municipal Election be set from 8:00 a.m. to 7:00 p.m. *I would recommend the City Council move to set the polling hours from 8:00 a.m. to 7:00 p.m. for the Municipal Election on Tuesday, November 6th.*
3. **Acceptance of Management Agreement between the City of Portsmouth and New Hampshire Department of Transportation Re: Scott Avenue Bridge.** The Memorial Bridge (State responsibility) and the Scott Avenue Bridge (City responsibility) have been providing service to the traveling public for 85 years. Currently, these bridges are structurally deficient, have many deteriorated structural elements, and a reduced load posting of 20 tons.

The Memorial Bridge had emergency structural repairs a few years ago with more temporary repairs planned for next year and the Scott Avenue Bridge has cracks in the concrete as well as significant spalling/crumbling of the concrete structural elements.

The Memorial Bridge is first on the New Hampshire Department of Transportations priority list for replacement/rehabilitation. The Memorial Bridge has a Federal Sufficiency Rating of 6 out of 100 and the Scott Avenue Bridge has a Federal Sufficiency Rating of 31 out of 100. These bridges need to be replaced and rehabilitated as soon as possible so that they are not closed to the traveling public.

As part of the State program to repair the Memorial Bridge, the State is prepared to undertake the management of the repairs to the Scott Avenue Bridge and participate (80% State, 20% City) in project costs. Total project cost for the Scott Avenue Bridge is estimated at \$2,155,000.00. In order for the NHDOT to manage the project, the City must enter into an agreement for those purposes which agreement must specifically be acknowledged by the City Council. For your information, attached is a copy of the agreement. *I would recommend the City Council move to authorize the City Manager to enter into an Agreement, as presented to the Council, with the New Hampshire Department of Transportation for the replacement of the Scott Avenue Bridge -BHF-T-0101(015), 13678.*

4. **Letter from Portsmouth Housing Authority Re: Request for 99-Year Lease Option on Lafayette School for the Development of Senior Housing.** Attached is a copy of a letter from Joseph Couture, Executive Director of the Portsmouth Housing Authority, which requests they be granted an option for a 99-year lease on Lafayette School similar to the Cottage Senior Housing project.

As you will recall, the Housing Authority's August 8, 2007 letter, which was on the Council's August 20<sup>th</sup> Agenda, proposed redevelopment of the Lafayette School to become at least ten (10) one-bedroom apartments for tenants age 55 and over who earn 60% or less of the median area income. Further, that letter proposed that the Housing Authority, along with its affiliated development group (PHA Housing Development Limited), lease the property for \$1.00 per year for a 99-year term. At its August 20<sup>th</sup> meeting, the Council voted to establish a Work Session with the Housing Authority on October 1, 2007 at 6:00 p.m. regarding this proposal.

However, as indicated in Mr. Couture's letter of September 5th, they have found they need approval of such a lease prior to the September 28<sup>th</sup> submission of an application to the Federal Home Loan Bank, which would provide funding for the redevelopment. Specifically, their Federal Home Loan Bank application must show some control over the property in order to score high enough to receive funding.

Attached is a draft option to lease prepared by the Legal Department which includes an aerial map. This draft document should give the Housing Authority the necessary site control they need to pursue financing of this project and provide the City with appropriate contingencies such as evidence of funding within 9 months of the date of the agreement. It may be necessary to make some minor changes to the draft document to satisfy funding regulators. It is my intent to still conduct the work session on October 1, 2007. *I would recommend the City Council move to authorize the City Manager to negotiate and enter into an option to lease the Lafayette School to the Portsmouth Housing Authority for redevelopment as senior housing.*

5. **Letter from Mark A. McNabb, National Block II, LLC Re: License Agreement for 11 State Street.** Attached is a copy of a letter and plan from Mark McNabb of National Block II, LLC, regarding a request for a License Agreement for 111 State Street for a small roof that will extend approximately 12" off the exterior face of the brick. *Therefore, I would recommend the City Council move to authorize the City Manager to negotiate and execute a License Agreement with National Block II, LLC, as presented.*
6. **Report Back from Planning Board Re: Icon Realty, LLC for Proposed Zoning Amendments.** As you will recall, at the March 5<sup>th</sup> City Council meeting, the Council referred the request from Icon Realty, LLC, for proposed zoning amendments to the Planning Board for report back. At the August 20<sup>th</sup> City Council meeting, the Council referred a petition from The Frank Jones Farm Neighborhood Group to the Planning Board, regarding this matter. Attached is memorandum from David Holden, Planning Director, summarizing the request of Icon Realty, LLC, as well as the Planning Board's recommendation that the Council, at this time, should make no changes to the 2005 Zoning Map. *Therefore, I would recommend the City Council move to accept the recommendation of the Planning Board, as presented.*

### ***Informational Items:***

1. **Report Back Re: Trustees of the Trust Fund MS-9 and MS-10.** As requested by Councilor Joanne Grasso, attached is a copy of the Trustees of the Trust Fund MS-9 and MS-10, for fiscal year 2007 ending June 30, 2007.
2. **Islington Street Corridor Study.** As you know, the Islington Street Corridor Study contract was given to Richardson and Associates. A kick off meeting has been held and the consultant is currently analyzing previous studies and existing conditions in the corridor. On September 27, 2007, there will be a series of stakeholder meetings held at the West End Theater off Islington Street for various interest groups. A press release will go out with the details, special interest groups will be notified and people should check the City's website for more information.