

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, JANUARY 14, 2008 TIME: 6:00PM

- 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

PRESENTATION

1. Collective Bargaining Agreements – Thomas Flygare, City Negotiator

- V. ACCEPTANCE OF MINUTES *(There are no minutes on for acceptance this evening)*

- VI. PUBLIC COMMENT SESSION

- VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant to the New Library Building Fund from NH Charitable Foundation
 - The Thoresen and Werner Families Fund - \$5,000.00 *(Fulfill pledge)*
- B. 2008 Coastal Grant Application Request
- C. Safe Routes to School Grant Acceptance

- VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

(There are no items under this section this evening)

- IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Harold Whitehouse regarding New City Council ***(Anticipated action – move to accept and place the letter on file)***
- B. Acceptance of Donations to the Coalition Legal Fund
 - Town of Center Harbor - \$500.00
 - Town of Carroll - \$1,000.00
 - Town of Hebron - \$1,000.00

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

- C. Letter from Jeanine Sylvester, Runner's Alley, requesting permission to hold the 11th Annual Runner's Alley/Redhook Brewery Memorial 5k Race on Sunday, May 25, 2008 at 11:00 a.m. (*Anticipated action – move to refer to the City Manager with power*)

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Paul Harvey, L.P.C.C., donating \$288.97 for improvements to the Lafayette Park

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action

1. Proposed Relocation of Fire Station 2
2. Settlement of Conservation Law Foundation Appeal of the City of Portsmouth's National Pollutant Discharge Elimination System
3. Request for Conditional Street Acceptance Re: Albacore Drive
4. Designation of One-Way Streets in the Atlantic Heights Neighborhood
5. Elderly and Disabled Exemptions
6. Pole License #63-325

Informational Items

1. Snow Removal Budget
2. 2007 Building Permit Report

B. MAYOR FERRINI

1. *Reports

C. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the December 13, 2007 meeting
2. Parking Committee Action Sheet and Minutes of the December 13, 2007 meeting

XII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

(*Indicates verbal report)

INFORMATIONAL ITEMS

1. Zoning Board of Adjustment minutes of November 20, 2007 and November 27, 2007 meetings
2. Conservation Commission minutes of the November 7, 2007 and November 14, 2007 meetings
3. Historic District Commission minutes of the November 7, 2007; November 14, 2007 and December 12, 2007 meetings
4. Site Review Technical Advisory Committee of the December 4, 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: January 11, 2008
To: Honorable Mayor Thomas G. Ferrini and City Council Members
From: John P. Bohenko, City Manager
Re: City Manager's Comments on January 14, 2008 City Council Agenda

Work Session:

6:00 p.m. – Legislative Delegation:

1. The City Council will meet with the Legislative Delegation at 6:00 p.m. in a work session prior to the City Council regularly scheduled meeting on Monday evening in the Eileen Dondero Foley Council Chambers and will be televised live on local government Channel 22.

The Newington Board of Selectmen had asked to be included in our next meeting with the Delegation and an invitation has been issued.

Tentative agenda items include discussion of legislation regarding:

- The New Hampshire Retirement System
- The Pease Development Authority & The Port
- New Tavern Legislation to Allow Alcohol Sales without Food Consumption
- Education Funding & a Constitutional Amendment
- Binding Arbitration
- School Construction Aid
- Environmental Legislation

Presentation:

1. **Collective Bargaining Agreements.** As you are aware, all fifteen (15) of the City's collective bargaining agreements will expire on June 30, 2008. In accordance with the City Charter, each department utilizes the City Negotiator to negotiate these agreements. Thomas Flygare of Flygare, Schwarz and Closson is the City's contracted labor negotiator. On Monday evening, he will be making a presentation to the City Council as to the process and requirements as it relates to collective bargaining for the City and the role of the City Council.

Acceptance of Grants/Donations:

1. **Acceptance of Grant to the New Library Building Fund.** Attached is a copy of a letter from the New Hampshire Charitable Foundation – Piscataqua Region, regarding a \$5,000.00 grant from the Thoresen and Werner Families Fund for the New Library Building Fund. This fulfills their pledge to the new Library Capital Campaign Fund.

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

2. **2008 Coastal Grant Application Request.** The City has an opportunity to submit a grant application to the NH Coastal Program for a \$30,000.00 grant from the NH Department of Environmental Services' for the purpose of conducting a Natural Resource Inventory of the City of Portsmouth. This grant if approved will look at wildlife habitat, wildlife corridors and important natural resource areas in the City. While a great deal has been done with mapping and assessment of wetland resource areas in the City, very little has been done citywide in assessing Portsmouth's natural resources. The Conservation Commission supports the assessment of the City's natural resources to insure that adequate protection is being provided for important natural resource areas.

Coastal Program Grant funds are available on a competitive basis through the NH Coastal Program to support projects adhering to its various objectives. This round of NH Coastal Program 2008 grants is a 50/50 matching program. The City if successful would use funds from the City's Conservation Fund to pay for the match. In order to submit an application to the New Hampshire Coastal Program, evidence of City Council authority to apply for and expend federal funds must be shown. A public hearing run by City staff is being held on Monday at 5:30 p.m., in the Planning Department Conference Room, to take public comment on this Coastal Grant application.

I would recommend the City Council move to authorize the City Manager to apply for, accept and expend a \$30,000.00 grant from the NH Department of Environmental Services' Coastal Program for the purpose of conducting a Natural Resource Inventory. Action on this matter should take place under Section VII of the Agenda.

3. **Safe Routes to School Grant Acceptance.** The City has carried out numerous initiatives in recent years to upgrade existing sidewalks, construct new sidewalks, install new bicycle facilities, maintain crosswalks and carry out bike safety education efforts. In addition to these ongoing efforts, the City is taking a more comprehensive approach that will include special emphasis on improving safe walking/biking routes to our schools and encouraging children and parents to use them. Towards that end, on April 4, 2007 the City Council established the Safe Routes to School Committee, which has broad representation from school officials, the City Council, local law enforcement, bicyclists and parents.

In August of last year, at the recommendation of the Safe Routes to School Committee, the City Council voted to apply for a grant from the NH Department of Transportation's Safe Routes to School Program. The City was awarded a \$93,000 grant from this program. No local matching funds are required. City Transportation Engineer Deborah Finnigan, PE will oversee implementation of the projects funded through the Safe Routes to School grant.

The grants funds will be used to fund a number of targeted infrastructure projects as well as several outreach and planning initiatives designed to improve safety and encourage our children to bike and walk to school. The specific projects funded are as follows:

- Elwyn Park neighborhood (Dondero School) pavement markings and bike lane signs/symbols
- Dondero School – Garfield Road connector path upgrades
- Little Harbour, St. Patrick's & Middle School bike racks
- Crosswalk safety signage for key locations
- Safe Routes to School community workshop
- Walk-Bike to School Survey
- Student Incentive Program

I would recommend the City Council move to authorize the City Manager and Superintendent of Schools to accept, expend and execute all necessary contracts for a \$93,000 grant from the NH Department of Transportation's Safe Routes to School Program for the purpose of funding a number of targeted infrastructure projects as well as several outreach and planning initiatives designed to improve safety and encourage our children to bike and walk to school. Action on this matter should take place under Section VII of the Agenda.

Consent Agenda:

1. **Donations to the Coalition Legal Fund.** Attached are copies of the following checks donating funds to the Coalition Legal Fund, which will be utilized to continue our fight to eliminate the statewide property tax.
 - Town of Center Harbor for \$500.00
 - Town of Carroll for \$1,000.00
 - Town of Hebron for \$1,000.00

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

City Manager's Items Which Require Action:

1. **Proposed Relocation of Fire Station 2.** On August 6, 2007, the City Council authorized bonding in the amount not to exceed \$3,650,000.00 for the design and construction of a new facility to replace Fire Station 2.

The original intent of the Fire Station Building Committee and the City Council, at the time of the bonding resolution, was to replace Fire Station 2 at the same location it is today. Subsequent to the approval of the bonding, the Fire Chief brought to my attention that the property at 3000 Lafayette Road (corner of Ocean and Lafayette) was available. The Fire Chief felt that the existing site which is less than one acre was not ideal for the replacement of a new fire station that was expected to last over forty years. The site at 3000 Lafayette Road is 2.5 acres and has better access to Route 1 and Ocean Road and would allow for enhanced operations at this location. The Fire Chief feels that 3000 Lafayette Road is a rare opportunity for the City to obtain a prime corner lot, in what he believes is a district that has been growing since Station 2 was built in 1967. The present location of Fire Station 2 and its replacement at that location was predicated on available land at the time it was designed. The Fire Chief along with the Building Committee, as well as, the Fire Commission, believes that this is an opportunity that the City needs to evaluate very carefully and should not pass up. It is their opinion that this location is ideal for a new public safety facility that will benefit not only the citizens but the Fire Department personnel, as well as, having a safe, healthy working environment.

Fire Station 2 has long been considered a gateway to the City of Portsmouth and the Chief feels that at this new location it would create an esthetically pleasing entryway into the City.

I have asked the Fire Chief along with representatives from the Fire Commission to discuss this matter at the City Council on Monday evening under my name. The purpose of the discussion will be to determine if the City Council wants me to proceed with further investigating this property. Prior to the new City Council being sworn in, the previous City Council was advised of this proposal and authorized me to continue to

explore the possibilities of obtaining this land. For your information, I have enclosed the following:

- 1) A memorandum from Fire Chief Christopher LeClaire regarding his reasons to relocate Fire Station 2 for the property known as 3000 Lafayette Road.
- 2) An aerial photograph showing the location of 3000 Lafayette Road.
- 3) A copy of an aerial showing the existing Fire Station 2.
- 4) Copy of a letter to Donald Eaton, who is representing the property owner regarding the City's interest in this property.
- 5) Copy of a bonding amortization schedule which shows the anticipated cost of the project at \$3,650,000.00 (bonding resolution that was approved on August 6th).
- 6) Amortization schedule showing the cost of the \$1.3 Million if the City Council proceeded with purchase of this property.
- 7) Amortization schedule showing total cost with the new property.

Subsequent to the Fire Chief's presentation, I would ask the City Council to discuss this matter and determine if it is in the City's best interest to bring forward a first reading for bonding for an additional \$1.3 Million for the purchase of this land for the relocation of Fire Station 2 at the February 11, 2008 City Council meeting.

2. **Settlement of Conservation Law Foundation Appeal of the City of Portsmouth's National Pollutant Discharge Elimination System.** As you will recall, in April 2007, the City of Portsmouth received its new discharge permit for the Peirce Island Wastewater Treatment Plant from the Environmental Protection Agency (EPA). The new permit requires secondary treatment of the City's wastewater from the Peirce Island plant. The City did not appeal the permit; instead, the City has been on a course to meet the new permit requirements as reflected in the City's Waste Water Master Plan. That master planning effort is underway as the City seeks the best long-term solution for meeting secondary requirements and potential future water quality requirements.

The Conservation Law Foundation (CLF) did, however, appeal the EPA permit. That appeal was made to the Environmental Appeals Board, an appellate arm of the EPA. CLF raises two issues in the appeal: (1) the EPA failed to include in the permit limitations for nitrogen; and (2) the permit fails to obtain the City's compliance with secondary standards within the 5-year duration of the permit. The City intervened in the appeal proceeding and shortly thereafter the City, EPA and CLF agreed to enter into a stay of the appeal in order to explore settlement.

During the last six months representatives from Public Works, the Legal Department and the City's outside engineering and legal consultants have been engaged in negotiations with CLF and EPA in an attempt to resolve CLF's appeal and to more generally find

common working ground on the issue of water quality. The science with regard to the impact of nitrogen on the Piscataqua River and Great Bay is not clear. More data is being gathered and assessed. Although not a party to the appeal, the New Hampshire Department of Environmental Services (NHDES) has played an active role in the settlement process as it is the agency charged with obtaining/assessing the water quality information.

During the course of the many discussions NH DES advised that it is in the process of completing a nitrogen study of the Piscataqua River and Great Bay. The City as well as other communities and interested scientists are participating in the evaluation of available data. NHDES' study is scheduled to be completed in December 2008. From that study it is likely that EPA will set effluent limits not only for Portsmouth's future NPDES permits but also in permits issued for other wastewater facilities discharging into the Piscataqua River and/or Great Bay. The timing of the completion of the State's study will dovetail well with the City's existing wastewater master plan study.

The settlement terms relative to the City are summarized as follows:

- The City's wastewater master planning process will continue to weigh as an important criterion in the site selection process the ability of the site to accommodate the types of treatment necessary to address nitrogen removal. At a minimum the site will be able to accommodate BNR which is biological nutrient removal using a single tank nitrification-denitrification process without supplemental carbon or filtration. Ideally the site will be sufficiently large so that additional nitrogen removal beyond that capable of achievement by BNR can be added.
- The City will continue to use its best efforts to inform and educate the public, stakeholders, and decision-makers regarding nitrogen control, including BNR and/or other technologies that are capable of reducing nitrogen.
- The City will conduct a study of interim measures that could be implemented during the term of the Peirce Island wastewater treatment facility's current NPDES permit to reduce the City's total nitrogen and total suspended solids to the Great Bay Estuary. The study, with the help of regulators and scientists, will evaluate (i) storm water pollution mitigation options such as enhanced education and outreach and land use regulations (ii) reduction of wastewater treatment plant sources such as an increase in fats, oils and grease control; (iii) best management practices; and (iv) potential operational improvements at the wastewater treatment facilities. The purpose of the study is to try to identify cost-effective measures to achieve a measurable water quality benefit during the period of time that it will take the City to study, select, design and construct a new treatment facility. The results of this study, which will include cost estimates of proposed options, will be brought to the City Council to determine what if any action the City wishes to take.

Assistant City Attorney Suzanne Woodland and Deputy Public Works Director David Allen will be in attendance on Monday evening to further discuss this matter and answer any questions.

I would recommend the City Council move to approve the settlement concept as reflected in the comments.

3. **Request for Conditional Street Acceptance Re: Albacore Drive.** The City has received a request from Atlantic Pointe Builders for a conditional street acceptance with respect to Albacore Drive, a new street which has been constructed at Atlantic Heights. Attached is a copy of a proposed agreement, which was prepared by City Attorney Robert Sullivan and reviewed by the Planning Department and Public Works Department.

I would recommend the City Council move to approve the Conditional Street Acceptance regarding Albacore Drive, as submitted.

4. **Designation of One-way Streets in the Atlantic Heights Neighborhood.** Over the past year, the Community Development and Public Works Departments have been working with the Atlantic Heights neighborhood and CLD Consulting Engineers on the design of the next CDBG-funded streetscape improvement project in the neighborhood. The design, which has received strong neighborhood support, calls for a one-way neighborhood circulation pattern. During the design phase, the City held three public meetings with the neighborhood and two on-site field days.

On February 8, 2007, the Traffic and Safety Committee unanimously recommended the designation of the one-way circulation pattern as shown on the attached plan. The City Council adopted the minutes of this meeting at the March 5, 2007 Council meeting. The next step in this process is the development of an ordinance designating the one-way streets, which I would like to bring back to the Council for first reading at the February 11, 2008 City Council meeting.

This project, which is described in the attached Executive Summary, will be constructed in phases as funding allows, with construction of at least the first phase to begin this summer.

I would recommend the City Council move to authorize the City Manager to bring back an ordinance with regard to this matter for first reading at the February 11, 2008 City Council meeting.

5. **Elderly & Disabled Exemptions.** Annually, since 2006 at the direction of the City Council, the City of Portsmouth reviews income and asset levels for both the Elderly and Disabled Exemptions pursuant to RSA 72:39-b and RSA 72.37-b and makes recommendations as to these levels.

Last year, the City Council adopted resolutions #7-2007 and #8-2007 which increased the income and asset levels for both the elderly and disabled exemptions by the rate of the November 2005 through November 2006 consumer price index (CPI) of 2%.

The current elderly and disabled exemption income levels are \$30,600 for a single taxpayer, \$37,740 for married taxpayers, and an asset limit of \$102,000.

If qualified, for elderly taxpayers, the exemption off the assessed value of the property is as follows:

Age 65 to 74	\$125,000
Age 75 to 79	\$175,000
Age 80 +	\$225,000

If qualified, for disabled taxpayers, the exemption off the assessed value of the property is \$100,000.

If the City Council wishes to adjust the income and asset levels for both the elderly and disabled taxpayers by the current November 2006 to November 2007 CPI of 3.4%, this would increase the limits (rounded up) as follows:

Single	\$31,640 increase of \$1,040
Married	\$39,030 increase of \$1,290
Asset Limit of	\$105,470 increase of \$3,470

This adjustment would be for assessments as of April 1, 2008 for the 2008 tax year or FY09.

The Assessor's office mails a notification annually to all elderly and disabled persons who currently receive this exemption to update their applications. All new applicants must submit an application and required documentation by April 15th of each year.

If the City Council wishes to make any adjustments in these exemptions, it would require an amendment to these resolutions as well as a public hearing and a majority vote of the City Council. It would be my suggestion that the City Council adjust these exemptions by the November 2006 to November 2007 CPI of 3.4% including asset limitations. I have attached for your information the tax impact of the elderly and disabled exemptions for FY08. Also attached are copies of the proposed resolutions.

I would recommend the City Council move to authorize the City Manager to bring back for first reading at the February 11th City Council meeting the resolutions as presented. (This requires a public hearing and two readings with a majority vote.)

6. **Request for Approval of Pole License Agreement #63-325.** The City Public Works Department has reviewed pole location information provided by PSNH for Petition and Pole License Agreement #63-325. In an effort to update their records, PSNH is requesting a license for these poles, which were installed in 1994. Attached is a photograph of the existing poles. The Public Works Department recommends approval of this license. *I would recommend the City Council approve the request from PSNH for Pole License Agreement #63-325 as recommended by the Public Works Department.*

Informational Items:

1. **Snow Removal Budget.** Due to the record breaking snowfall this past December, we have spent \$244,900.00 from the City's Snow Removal account. This reflects 81% of the entire budget (see the attached memorandum from Steve Parkinson, Public Works Director). As in the past, whenever the snow removal budget is over expended, we continue to provide snow removal operations but try to make up the shortfall in other areas of the Public Works budget. In the event we cannot do this, we will come back to the City Council in the 4th quarter of the fiscal year to request a transfer from the contingency account.
2. **2007 Building Permit Report.** For your information, attached is a memorandum from Richard Hopley, Chief Building Inspector, as well as a copy of the 2007 Building Permit Report.