

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, JUNE 16, 2008 TIME: 7:00PM

- 6:00PM – TOUR OF THE NEW DISCOVER PORTSMOUTH CENTER – MARGUERITE MATHEWS

## AGENDA

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

### MAYOR'S AWARD

1. Portsmouth High School Girls Lacrosse Team – Division III State Champions

### PRESENTATION

1. Quarterly Wastewater Master Plan Update – David Allen, Deputy Public Works Director

### V. ACCEPTANCE OF MINUTES – JUNE 2, 2008

### VI. PUBLIC COMMENT SESSION

### VII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 1 BY THE CREATION OF AN ARTICLE XVIII ENTITLED PAYMENT BY CREDIT CARD PURSUANT RSA 80:52-c

### VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to the New Library Building Fund
  - Robert A. Shaines - \$5,000.00 (*Fulfills Pledge*)
- B. Acceptance of Donation to the Coalition Legal Fund
  - Town of New London - \$1,000.00
- C. Acceptance of Police Department Donation
  - Portsmouth Police Explorer Cadets in the amount of \$6,500.00 from the CrimeStoppers organization

### IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second reading of Ordinance amending Chapter 1 by the creation of an Article XVIII entitled Payment by Credit Card Pursuant RSA 80:52-c

## X. CONSENT AGENDA

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

#### A. Acceptance of Donations to Art-Speak for Overnight Art Event

- Donalee Brothers - \$10.00
- Meganne & Alfonso Fabrega - \$10.00
- Geraldine Eastler - \$25.00
- Jennifer Meister - \$25.00
- GF Wool & MS Sillari - \$25.00
- Lawrence Yerdon - \$25.00
- Michael Frandzel & Judith Silver - \$50.00
- Jeanne Porter - \$50.00
- Stuart Wisong & Richard Hadlock - \$50.00
- Adams & Roy, Inc. - \$500.00

***(Anticipated action – move to approve and accept the donations to Art-Speak for the Overnight Art Event, as listed)***

#### B. Renewal of Sidewalk Obstruction License with no changes from last year

- RiverRun Bookstore – 1 Table & 1 A-frame sign

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

#### C. Request from Keith Prince, Rudi's Portsmouth, requesting permission for a Sidewalk Obstruction License to place 1 A-frame sign in front of establishment ***(Anticipated action – move to refer to the City Manager with power)***

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

- A. Letter from Jay McSharry, Jumpin' Jay's Fish Café, requesting a license agreement for the dumpster, recycle totes and recycled bio-fuel oil receptacle that are located on Porter Street and shared by Jumpin' Jay's, Radici and The Offices at One Middle Street
- B. Letter from Majors Chester & Joy Emmons, The Salvation Army, requesting a license agreement for a dumpster located on Porter Street
- C. Letter from Kimberly Jodoin, Moving Mountains, requesting permission to hold a three mile bike loop in the center of Pease on Sunday, August 17, 2008 from 9:00 a.m. – 1:00 p.m.

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

### **A. CITY MANAGER**

#### **City Manager's Items Which Require Action Under Other Sections of the Agenda**

1. Public Hearing/Second Reading of Proposed Ordinance Amendments and Resolutions:
  - 1.1 Public Hearing/Second Reading of Ordinance amending Chapter 1 by the creation of an Article XVIII entitled Payment by Credit Card Pursuant RSA 80:52-c (***Action on this matter should take place under Section IX of the Agenda***)

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

1. NH Department of Transportation Request for License Re: Memorial Bridge Parking and Emergency Generator
2. Request from Peirce Island Committee Re: "Carry-in, Carry-out" Refuse Policy
3. Proposed Date Re: Boards and Commissions Annual Recognition Night
4. Request for License Agreement Re: Music Hall
5. Request for License Agreement Re: 40 Congress Street
6. Postponed Action Re: Conservation Commission Report Back on Establishing an Open Space Committee (*Postponed from the June 2, 2008 City Council meeting*)
7. Report Back Re: Consolidation of Committees

#### **Informational Items**

1. Events Listing
2. Joint Work Session with School Board Re: Update on Middle School

### **B. MAYOR FERRINI**

1. Appointment to be Considered:
  - Christine Woodman Casa to the Safe Routes to School Committee as the Dondero School Representative
2. Appointment to be Voted:
  - Charles Oxford, Jr. – Appointment to Portsmouth Housing Authority
3. \*Replacement Appointment of Economic Development Commission Representative to Housing Blue Ribbon Committee – William Gladhill
4. \*Reports

## **XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

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

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

(\*Indicates verbal report)

**INFORMATIONAL ITEMS**

1. Historic District Commission minutes of the May 7, 2008 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:** June 12, 2008

**To:** Honorable Mayor Thomas G. Ferrini and City Council Members

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

**Re:** City Manager's Comments on June 16, 2008 City Council Agenda

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**6:00 p.m. – Tour of the new Discover Portsmouth Center**

On Monday evening at 6:00 p.m., the Portsmouth Historical Society will be providing the Mayor, City Council Members, and City Manager a tour of the new Portsmouth Discover Center prior to the regular meeting. City Council Members should meet at the old library. Prior to the tour, Society President Marguerite Mathews will welcome the Council with brief remarks and background regarding the lease of the old library by the Portsmouth Historical Society.

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***Presentation:***

1. **Quarterly Wastewater Master Plan Update.** On Monday evening, the project team which consists of the David Allen, Deputy Public Works Director; Peter Rice, Water and Sewer Engineer; Peter Goodwin, Project Manager with Weston and Sampson; Mark Allenwood, Project Engineer with Brown and Caldwell and Steve Freedman, Project Engineer with Brown and Caldwell for the Wastewater Master Plan will be presenting the quarterly update of the progress on the Study. The 20 minute presentation will address four areas that have been the focus of our work over the past three months. Those efforts have included the following:
  - Task 14 - Workshop to review interim measures
  - Task 3 - Completion of the flow and load forecasting
  - Task 4 - Collection System Evaluation
  - Task 5 - Technology Alternatives evaluation

A brief update of planned activities for the next quarter will also be presented.

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

1. **Acceptance of Donation to the New Library Building Fund.** The New Library Capital Campaign Committee has received a donation from Robert A. Shaines in the amount of \$5,000.00 for the New Library Building Fund. This fulfills his pledge.

*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.*

2. **Donation to the Coalition Legal Fund.** Attached is a copy of a check from the Town of New London in the amount of \$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 matter should take place under Section VIII of the Agenda.*

3. **Acceptance of Police Department Donation.** Attached under Section VIII of the Agenda is a memorandum from Gerald W. Howe, Chairman of the Portsmouth Police Commissioners, and Michael J. Magnant, Police Chief, requesting that the City Council approve the following donation:

- a. Donation to the Portsmouth Police Explorer Cadets in the amount of \$6,500.00 from the CrimeStoppers organization.

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 VIII of the Agenda.*

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

1. **Public Hearing/Second Reading of Proposed Ordinance Amendments and Resolutions:**

- 1.1 **Public Hearing/Second Reading of Ordinance amending Chapter 1, by the creation of an Article XVIII entitled – Payment by Credit Card Pursuant to RSA 80:52-c.** As a result of the June 2<sup>nd</sup> City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the attached proposed Payment by Credit Card Ordinance. As you may recall during a budget work session, the Finance Director indicated that she would like to commence a pilot program to utilize credit cards for the payment of water and sewer bills. If this pilot program is successful, we would like to expand payment

of parking fines and other city related payments. In order to accept credit cards, state statute RSA 80-52-c requires the following:

“The legislative body, by ordinance adopted in accordance with RSA-39, may authorize the municipality’s treasurer or other appropriate municipal official to accept payment of local taxes, charges generated by the sale of utility services, or other fees by use of a credit card. Any municipality adopting such an ordinance may add to the amount due, in addition to any penalties and interest payable, a service charge for the acceptance of the card. The municipality, at the time of billing shall disclose the amount of the service charge.”

*I would recommend that the City Council move to pass second reading and hold a third and final reading at the July 21st City Council meeting on the proposed ordinance that would authorize these credit card payments in accordance with state law. Action on this mater should take place under Section IX of the Agenda.*

### **Consent Agenda:**

1. **Acceptance of Donations to Art-Speak for Overnight Art Event.** Art-Speak has received the following donations for the Overnight Art Event:

- \$10.00 from Donalee Brothers
- \$10.00 from Meganne & Alfonso Fabrega
- \$25.00 from Geraldine Eastler
- \$25.00 from Jennifer Meister
- \$25.00 from GF Wool & MS Sillari
- \$25.00 from Lawrence Yerdon
- \$50.00 from Michael Frandzel & Judith Silver
- \$50.00 from Jeanne Porter
- \$50.00 from Stuart Wisong & Richard Hadlock
- \$500.00 from Adams & Roy, Inc.

*I would recommend that the City Council approve and accept the donations to Art-Speak for the Overnight Art Event, as listed. Action on this matter should take place under Section X of the Agenda.*

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

1. **NH Department of Transportation request for License Re: Memorial Bridge Parking and Emergency Generator.** Attached is a letter from L. Robert Landry, Project Manager for the New Hampshire Department of Transportation (NHDOT) for the rehabilitation of the Memorial Bridge project. As you can see from the attached letter, he is requesting permission to locate an emergency generator under the bridge on City property. Further, he is requesting that the bridge operators continue to be able to park on City-owned land under the bridge. Also attached is a map of the area. Mr. Landry will be in attendance to answer any questions that the City Council may have.

I would recommend that the City Council authorize me to enter into the appropriate license agreement to allow the NHDOT to place an emergency generator in an area that would not interfere with the future Riverwalk project and further, to allow employee parking on City property under the bridge.

*Therefore, I would recommend the City Council move to authorize the City Manager to execute the appropriate license agreements with the NHDOT for an emergency generator and employee parking for the Memorial Bridge project.*

2. **Request from Peirce Island Committee Re: “Carry-in, Carry-out” Refuse Policy.** Attached is a letter from Hugh Jencks, Chairman of the Peirce Island Committee, regarding their recommendation that the City adopt a “Carry-in, Carry-out” Refuse Policy with regard to refuse on the island and that all trash receptacles be removed. The City staff believes it is worth attempting a pilot program to see if this policy would work. One caveat is that we would like to keep trash receptacles on the inside perimeter of the outdoor pool given the volume of use that it receives during the day. *Therefore, it would be my recommendation for the City to conduct a pilot program for a “Carry-in, Carry-out” Refuse Policy at Peirce Island with the exception of the outdoor pool.*
3. **Proposed Date Re: Boards and Commissions Annual Recognition Night.** The City Clerk has reviewed the City Council’s Meeting Schedule for 2008 and is proposing the second Thursday, November 13, 2008 for the Boards and Commissions Annual Recognition Night. *If this date meets with the City Council’s approval, I am recommending that the City Council move to establish the Boards and Commission Annual Recognition Night for Thursday, November 13, 2008. Details to follow.*
4. **Request for License Agreement Re: Music Hall.** The Music Hall at 28 Chestnut Street seeks a license agreement to facilitate the completion of renovation activities at the Music Hall. The renovations are due to be completed in September 2008. The Music Hall had a License Agreement back in 2006 at the commencement of renovation activities. That agreement expired.

The attached draft License Agreement makes it clear that Porter Street and Chestnut Street are to remain open under this agreement. There may be a need for the occasional temporary closure, a couple of hours for example when cement is poured. As spelled out in the draft License Agreement, any closure must have the prior approval of the Department of Public Works and will require a police detail and notification to the Fire Department. Also attached are an aerial and photographs indicating the area of the proposed License Agreement.

The attached draft License Agreement has been reviewed by the Legal Department, the Public Works Department, and a representative of the Music Hall.

*I would recommend the City Council move to authorize the City Manager to enter into a License Agreement with the Music Hall for purposes of facilitating construction activities at 28 Chestnut Street.*

5. **Request for License Agreement Re: 40 Congress Street.** On April 7, 2008, the City Council approved a License Agreement for William Greenier Building Contractor LLC to facilitate renovation activities at 40 Congress Street. The License Agreement allowed the use of two parking spaces, Monday through Friday only, in front of 40 Congress Street to facilitate construction. See attached aerial view of the two parking spaces. The License Agreement is set to expire on June 13, 2008. Mr. Greenier informed the Legal Department on June 9, 2008 that he would like an extension of the License Agreement to July 11, 2008. The Licensee will defer from use of the licensed spaces on July 4<sup>th</sup>. The City will continue to be compensated \$40 per day for the loss of the two spaces.

The project at 40 Congress Street entails renovation of the interior to accommodate a bank. There are numerous specialty trades involved; with unloading of materials taking place on a regular basis. In addition, there is no dumpster on site and debris is removed regularly by truck.

There will be no encumbrance of the sidewalk.

*I would recommend the City Council authorize the City Manager to negotiate and enter into an extension of the existing License Agreement with Greenier Building Contractor LLC for purposes of facilitating construction activities at 40 Congress Street.*

6. **Postponed Action Re: Conservation Commission Report Back on Establishing an Open Space Committee.** Given the increasing interest in the protection of the City's open space properties, and in response to the March 7<sup>th</sup> letter from the Friends of Sagamore Creek, the Council voted on April 21, 2008 to refer this matter to the Conservation Commission for a report back. The Conservation Commission discussed this issue at their May 14<sup>th</sup> meeting and provided a report back for the June 2<sup>nd</sup> City Council meeting, which included the recommendation to establish a subcommittee of the Conservation Commission focused on developing an inventory and assessment of the City's open spaces and updating the City's 1972 Open Space Plan. That subcommittee, as proposed, would have included representatives from a number of other City committees.

It should be noted that the powers and authorities of Conservation Commissions under NH RSA 36-A include the following:

- "It shall keep an index of all open space and natural, aesthetic or ecological areas within the city or town, as the case may be, with the plan of obtaining information pertinent to proper utilization of such areas, including lands owned by the state or lands owned by a town or city.
- It shall keep an index of all marshlands, swamps and all other wetlands in a like manner, and may recommend to the city council or selectmen or to the department of resources and economic development a program for the protection, development or better utilization of all such areas."

On a somewhat parallel track with the Conservation Commission's June 2<sup>nd</sup> report back to the Council, the City's Ad Hoc Restructuring Committee recommended to the City Council on May 19<sup>th</sup> that a new Recreation, Parks and Open Space Committee be created that would assume the functions of the existing Recreation, Peirce Island, Cemetery and Dog Committees and the Council voted to instruct the City Attorney to draft an ordinance that would accomplish this. As a result of the May 19<sup>th</sup> Council vote regarding this matter, I have provided a report back under this section of the agenda.

Attached is a copy of a letter, dated June 11, 2008 from Steve Miller, Chair of the Conservation Commission. With regard to the Conservation Commission's report back on establishing an inventory of the City's open space, I would recommend the Council consider the following action at this time:

*That the Conservation Commission as a whole, or acting through a subcommittee comprised of its own members, conduct an open space inventory with a focus on land that has conservation value (for example, wildlife habitat, rare/endangered species, farmland) and/or passive recreation value (for example, walking trails rather than active recreation such as playing fields) and contract with a natural resource protection specialist, such as a wildlife biologist, to accomplish this work.*

7. **Report Back Re: Consolidation of Committees.** As you may recall, on May 19, 2008, the Portsmouth City Council voted "to instruct the City Attorney to draft an ordinance to create a new Recreation, Parks and Open Space Committee that would assume the functions of the existing Recreation, Peirce Island, Cemetery and Dog Committees." Attached is a memorandum and proposed ordinance from Attorney Robert Sullivan to me that responds to the City Council's request. The memorandum from Attorney Sullivan will serve as the report back on this matter.

*The City Council has the following two options to proceed as it relates to this matter:*

- 1) *To bring back to your July 21st meeting for a first reading, or*
- 2) *To conduct a work session on this matter at the July 21<sup>st</sup> meeting prior to the regular City Council meeting.*

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

1. **Events Listing.** For your information, attached is a copy of the Events Listing updated after the last City Council meeting on June 2, 2008.
2. **Joint Work Session with School Board Re: Update on Middle School.** Just a reminder the joint work session with the School Board regarding the Middle School is scheduled for Monday, June 23, 2008 at 6:30 p.m. The purpose of the work session is to review the preliminary plans that have been developed on various options as it relates to the construction of a new middle school. JCJ Architects will be at this work session reviewing these options. Attached is a copy of the agenda.