

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, DECEMBER 15, 2008 TIME: 6:00PM

## AGENDA

### • 6:00PM – LEGISLATIVE DELEGATION WORK SESSION

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

#### MAYOR'S AWARD

1. Patricia Remick, Recognition for Annual Report Award
2. Rudi's Restaurant – Recognition for Thanksgiving Dinner

#### PROCLAMATION

1. Human Rights Day

#### PRESENTATION

1. Quarterly Wastewater Master Plan Update Re: Interim Measures Evaluation

### V. ACCEPTANCE OF MINUTES –NOVEMBER 24, 2008

### VI. PUBLIC COMMENT SESSION

### VII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.330 – NO PARKING – MIDDLE ROAD – NORTHERLY SIDE FROM SYLVESTER STREET TO SWETT AVENUE
- B. ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.330 – NO PARKING – MECHANIC STREET:
  - SOUTHERLY SIDE, FROM MARCY STREET TO THE PEIRCE ISLAND BRIDGE
  - NORTHERLY SIDE, FROM MARCY STREET TO THE PEIRCE ISLAND BRIDGE BETWEEN THE HOURS OF 11:00 P.M. AND 6:00 A.M.
  - WESTERLY SIDE, FROM PEIRCE ISLAND ROAD TO A POINT 86 FEET NORTH OF GATES STREET

## VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Police Department Grants & Donations
- Bullet Proof Vest Grant Award in the amount of \$4,557.00 from the Department of Justice
  - Donation in the amount of \$50.00 from the North Church Women in support of the PAL basketball program

## IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Amendments to Chapter 7 – Vehicles, Traffic Parking Omnibus Ordinances
- B. First reading of Amendment to Chapter 7, Article VI, Section 7.604 – Truck Loading/Unloading Zones – Commercial Loading Zone Permits
- C. Second reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Middle Road – Northerly side from Sylvester Street to Swett Avenue
- D. Second reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Mechanic Street:
- Southerly side, from Marcy Street to the Peirce Island Bridge
  - Northerly side, from Marcy Street to the Peirce Island Bridge between the hours of 11:00 p.m. and 6:00 a.m.
  - Westerly side, from Peirce Island Road to a point 86 feet north of Gates Street

## X. CONSENT AGENDA

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

- A. Acceptance of Wellness Grant in the amount of \$3,950.00 from HealthTrust's Health Promotion WELLDollars Healthy and Safety Grant Program to be used towards the City's wellness efforts (**Anticipated action – move to accept the Wellness Grant in the amount of \$3,950.00 from the Trust's Health Promotion WELLDollars Grant Program**)

- B. Acceptance of Art-Speak's Overnight Art Event
- \$500.00 – 100 Market Street, LLC
  - \$100.00 – Terrence Hunter Allen
  - \$25.00 – Mary & John Rauh

**Anticipated action – move to accept and approve the grant and donations to Art-Speak's Overnight Art Event, as presented.)**

- C. Letter from Nancy Pollard, President of Friends of the South End, requesting permission to hold the 5<sup>th</sup> Annual Fairy House Tour on September 19<sup>th</sup> and 20<sup>th</sup>, 2009 (**Anticipated action – move to refer to the City Manager with power**)

- D. Letter from Richard Wagner, Executive Director, AIDS Response Seacoast, requesting permission to conduct their 13<sup>th</sup> Annual Seacoast AIDS Walk and Dog Walk on Sunday, May 4, 2009 from 10:00 a.m. to 5:00 p.m. **(Anticipated action – move to refer to the City Manager with power)**
- E. Letter from Kathy Beebe Keefe, Executive Director, Sexual Assault Support Services (SASS), requesting permission to hold the 2<sup>nd</sup> Annual KidSafe 5K Run/Walk on Pease Tradeport Saturday, May 9, 2009. **(Anticipated action – move to refer to the City Manager with power)**
- F. Letter from Edmond Daneault, Chief Rabban, Bektash Shriners requesting permission to hold their Spring Ceremonial parade for Saturday, May 2, 2009. **(Anticipated action – move to refer to the City Manager with power)**
- G. Letter from Heidi Roy, Associate Development Manager, National Multiple Sclerosis Society requesting permission to hold their 2009 Bike MS Seacoast Bike Ride on Saturday, August 8, 2009. **(Anticipated action – move to refer to the City Manager with power)**

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

- 1. Letter from Richard M. Candee, Professor Emeritus, Boston University Preservation Studies Program, Vice President Portsmouth Historical Society, regarding the Memorial Bridge.
- 2. Letter from Gregg Sessler and John Akar, Cava regarding license agreement for 10 Commercial Alley, Cava Sign

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

**A. CITY MANAGER**

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

- 1. Consideration of First Reading of Proposed Ordinance Amendments and Resolutions:
  - 1.1 First Reading of Amendments to Chapter 7 – Vehicles, Traffic Parking Omnibus Ordinances **(Action on this matter should take place under Section IX. A. of the Agenda)**
  - 1.2 First Reading of Amendment to Chapter 7, Article VI – Truck Loading/Unloading Zones – Commercial Loading Zone Permits **(Action on this matter should take place under Section IX. B. of the Agenda)**

2. Public Hearing/Second Reading of Proposed Ordinance Amendments and Resolutions:
  - 2.1 Public Hearing/Second Reading of proposed Ordinance to amend Chapter 7, Article III, Section 7.330 – No Parking – Middle Road (***Action on this matter should take place under Section VII. A. and Section IX. C. of the Agenda***)
  - 2.2 Public Hearing/Second Reading of proposed Ordinance to amend Chapter 7, Article III, Section 7.330 – No Parking – Mechanic Street (***Action on this matter should take place under Section VII. B. and Section IX. D. of the Agenda***)

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

1. Discussion and Proposed Action on Pay & Display Meters
2. Report Back Re: Coventry Assets, Ltd., 10 Pleasant Street – License Agreement Request to Locate Canopies over the Port Street Right-of-Way
3. Proposed Bonding Re: Citywide Capital Improvements
4. Request of School Department to Transfer \$550,000.00 to fund Teacher's Collective Bargaining

**Informational Items**

1. Events Listing
2. Boarding House Permits
3. City Hours of Operation Re: Christmas & New Year's

**B. MAYOR FERRINI**

1. Proposed Letter to be sent to Congressional Delegation Re: Federal Stimulus Package
2. Letter to Pease Development Authority (PDA) Re: Work Force Housing
3. \*Recreation Committee Reconstructing
4. Acceptance of Resignation:
  - Louis R. Vinciguerra – Cable Commission

**C. COUNCILOR KENNEDY**

1. \*Fishing Committee

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

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

**DIANNE M. KIRBY  
DEPUTY CITY CLERK**

(\*Indicates verbal report)

**INFORMATIONAL ITEMS**

**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:** December 11, 2008

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

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

**Re:** City Manager's Comments on December 15, 2008 City Council Agenda

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***Work Session:***

**6:00 p.m.**

1. **Legislative Delegation Work Session.** On Monday evening at 6:00 p.m., the City Council will be conducting a work session with the City's Legislative Delegation (see attached agenda). Also, attached at the request of Councilor Chris Dwyer, is a public policy paper entitled "Dealing with New Hampshire's Budget Busters: The Budget Conversation Continued".

***Mayor's Award:***

1. On Monday evening, Pat Remick of the City Manager's Office will receive a Mayor's Award for development and production of the City's Annual Report, recently awarded first place for Excellence in Annual Reports in the NH Local Government Center's annual competition, the City's first submission to the competition.
2. Rudi's Restaurant Recognition for Thanksgiving Dinner. On Monday evening, Keith Prince, Owner, Brook Gassner, Owner, Chris Frazee, Manager and Sean Van Celette, Head Chef of Rudi's Restaurant will receive a Mayor's Award for serving Thanksgiving Dinner on Wednesday, November 26, 2008 to over 150 needy people.

***Presentation:***

1. **Quarterly Wastewater Master Plan Update Re: Interim Measures Evaluation.** In January of 2008, the City entered into a Settlement Agreement with the Environmental Protection Agency (EPA) and the Conservation Law Foundation (CLF). That

Settlement Agreement arose out of an appeal brought by CLF relative to the City's discharge of wastewater from the Peirce Island Wastewater Treatment Facility (WWTF). The Settlement Agreement is included in your packet. As part of the Settlement Agreement, the City, with the assistance of the EPA, DES and other engineers and scientists, evaluated what if any interim measures could be implemented to reduce total nitrogen and total suspended solids from entering the Piscataqua River prior to the end of the current permit cycle, April of 2012. Excess nitrogen and suspended solids are pollutants of concern and are believed to be contributing to the stressed environment in the Piscataqua. City staff has provided a memorandum, also included in your packet, which summarizes the result of the interim measures evaluation. Of the seven measures evaluated, City staff recommends that three stormwater related measures be considered.

Staff believes that the stormwater interim measures will have the most cost effective long term benefit to the environment. These measures address stormwater regulatory compliance by developing programs that will be applicable beyond just the five year Peirce Island WWTF permit cycle. Unless the City Council objects, City Staff will incorporate these projects into the budget process including our six year capital improvement program. At that time, the City Council can make a decision on funding these projects. For your information, on Monday evening, Suzanne Woodland, Assistant City Attorney, David Allen, Deputy Director of Public Works and Peter Goodwin of Weston & Sampson will present in more detail the status of the Wastewater Interim Measures as required by the Settlement Agreement.

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

1. **Acceptance of Police Department Grant & 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 grant:
  - a. Bullet Proof Vest Grant Award – This grant in the amount of \$4,557.00 is the 2008 award from the Department of Justice for bullet proof vests. The vests are purchased for new officers and older vests replaced on a rotating maintenance cycle with the help of this grant. The award amount represents 50% of the total actual cost for vest replacements.
  - b. A donation in the amount of \$50.00 from the North Church Women in support of the PAL basketball program.

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 grant 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. Consideration of First Reading of Proposed Ordinance Amendments and Resolutions:**

- 1.1 **First Reading of Amendments to Chapter 7 – Vehicles, Traffic Parking Omnibus Ordinances.** On March 20, 2000 the City Council adopted Ordinance #4-2000 under Chapter 7, Article 1, Section 7.103 of the Parking Ordinance, which authorized the Parking Committee to modify city parking regulations as appropriate. This Ordinance revision has made the City more responsive to the changing parking needs of the downtown.

Before the new procedure was approved, it required three readings of the City Council to simply change a parking space from a 2-hour time restriction to a 15-minute one. The process from when a request was received to when the sign was changed often took 3 months or longer to complete.

Under the new procedure, the process is streamlined. The Parking Committee takes formal action, presents the action to the City Council in the form of monthly meeting minutes, and implements the action only after the City Council adopts the meeting minutes. The public hearing process is still accomplished, but only after the action has been in place for one year, or less, as the Council deems appropriate. This way, the Council and the public have the benefit of seeing how the recommended parking change worked before formally adopting it.

The new procedure also benefits the City by fostering a continuing dialogue and analysis of downtown parking issues. The Parking Committee meets monthly to monitor on-street and off-street parking utilization data and operations. The recommended actions that result from these meetings are made in the context of a comprehensive review of current parking conditions.

Attached under Section IX of the Agenda are numerous proposed changes to Chapter 7, Vehicles, Traffic Parking Omnibus Ordinances. These changes were either implemented by the Parking Committee for testing during the last year or are part of ongoing improvements to be parking ordinance and are forwarded to the City Council for approval. Attached are diagrams showing the changes to the ordinance.

If the City Council moves to schedule a public hearing, prior to the public hearing there will be a detailed Powerpoint presentation on the proposed changes.

*I would recommend that the City Council move to pass first reading for the proposed changes to Chapter 7 of the Vehicles, Traffic Parking Omnibus Ordinances, as recommended by the Parking Committee, and schedule a public hearing and second reading at the January 12, 2009 City Council meeting. Action on this item should take place under Section IX of the Agenda.*

- 1.2 **First Reading of Amendment to Chapter 7, Article VI – Truck Loading/Unloading Zones – Commercial Loading Zone Permits.** Attached under Section IX of the Agenda is a proposed ordinance amendment to Chapter 7, Article VI – Truck Loading/Unloading Zones for Commercial Loading Zone permits. During the City Council meeting of October 20, 2008, the Council approved the Parking Committee minutes of October 9, 2008, which requested an ordinance for Commercial Loading Zone permits. Attached please find the proposed ordinance for the City Council’s consideration. For the Council’s information, attached please find copies of the Commercial Loading Zone Permit – Rules and Regulations as well as the application for Commercial Loading Zone Permit – 2009.

*I would recommend that the City Council move to pass first reading of the proposed changes to Chapter 7 of the Ordinances, as recommended by the Parking Committee, and schedule a public hearing and second reading at the January 12, 2009 City Council meeting. Action on this item should take place under Section IX of the Agenda.*

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

- 2.1 **Public Hearing/Second Reading of proposed Ordinance to amend Chapter 7, Article III, Section 7.330 – No Parking – Middle Road.** As a result of the November 24<sup>th</sup> City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the attached proposed ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Middle Road, sub-section A of the Ordinances. As you may recall, at the October 20, 2008 City Council meeting, the Council approved the Traffic and Safety Minutes of October 15, 2008, which require an ordinance for No Parking on Middle Road.

*I would recommend the City Council move to pass second reading and hold a third and final reading of the proposed ordinance, as submitted, at the January 12, 2009 City Council meeting. Action on this item should take place under Section IX of the Agenda.*

- 2.2 **Public Hearing/Second Reading of proposed Ordinance to amend Chapter 7, Article III, Section 7.330 – No Parking – Mechanic Street.** As a result of the November 24<sup>th</sup> City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the attached proposed ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Mechanic Street, sub-section A of the Ordinances. As you may recall, at the October 6, 2008 City Council meeting, the Council approved the Traffic and Safety Minutes of September 11, 2008, which require an ordinance for No Parking on Mechanic Street.

*I would recommend the City Council move to pass second reading and hold a third and final reading of the proposed ordinance, as submitted, at the January*

12, 2009 City Council meeting. Action on this item should take place under Section IX of the Agenda.

## **Consent Agenda:**

1. **Acceptance of Wellness Grant.** The City of Portsmouth has been awarded a \$3,950.00 grant from the HealthTrust's Health Promotion WELLDollars Health and Safety Grant Program to be used towards the City's wellness efforts.

By offering a wellness program for City employees, it is our goal to reduce health risk factors and create a healthier lifestyle for our employees. To realize this goal, the City, through its Wellness Program, will provide health and safety programs to its employees in an effort to improve the quality of their lives.

The City also feels that, with the rising cost of health care, as well as the financial implications to the Community, of lost time on the job, a comprehensive wellness program is our best chance of reducing cost to the Community and having a physically fit work force through proactive injury prevention.

*I would recommend the City Council move to accept the Wellness Grant in the amount of \$3,950.00 from the Trust's Health Promotion WELLDollars Grant Program. Action on this matter should take place under Section IX of the Agenda.*

2. **Acceptance of Donations for Art-Speak's Overnight Art Event.** Art-Speak requests that the following donations be accepted by the City Council for Art-Speak's Overnight Art Event:

- 100 Market Street, LLC for \$500.00
- Terrence Hunter Allen for \$100.00
- Mary & John Rauh for \$25.00

*I would recommend the City Council move to accept and approve the grant and donations to Art-Speak's Overnight Art Event, as presented. Action on this matter should take place under Section VII of the agenda.*

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

1. **Discussion and Proposed Action on Pay & Display Meters.** On Monday evening, I have requested that Jon Frederick, Parking Manager be in attendance to participate in discussion on the issue of the future use of pay and display in the City of Portsmouth. As part of this discussion, I have asked that Jon prepare a short PowerPoint presentation to review the history and benefits of implementing on a permanent basis this system to replace our existing parking meters. I have attached a memorandum from Jon that further discusses this issue. It would be my intent on Monday evening to get policy direction from the City Council as it relates to the future use of pay and display.

*I would recommend the City Council move to authorize the City Manager to implement the Pay and Display Program.*

2. **Report Back Re: Coventry Assets, Ltd., 10 Pleasant Street – License Agreement Request to Locate Canopies over the Porter Street Right-of-Way.** As you may recall, at the October 6, 2008 City Council meeting, the Council referred the request from Coventry Assets, Ltd., 10 Pleasant Street for a license agreement to locate canopies over the Porter Street right-of-way, to the Planning Board for consideration and report back to the City Council.

Attached is a memorandum from David Holden, Planning Director, outlining the Planning Board's recommendation that one license agreement encompass all the terms for the continued use of this public space, including, the space occupied by the ramp structure with the following stipulations:

- That this favorable recommendation is based on receiving a concurrent approval from the Department of Public Works;
- That canopy dimensions shall be as presented by the applicant in their submittal.
- That the request shall be subject to a municipal license that incorporates all prior municipal actions authorizing the placement of the handicap ramp; this license shall be approved by the Legal Department as to content and form; it should be revocable by the City and if an encroachment needs to be removed or relocated for any purpose, it shall be done at no cost to the City; and,
- That any resulting disturbance of a sidewalk, street or other public infrastructure shall require its restoration at no municipal cost and subject to review and acceptance by the Department of Public Works.

*I would recommend the City Council move to accept the recommendation of the Planning Board with the aforementioned stipulations, approve this request for a License Agreement at 10 Pleasant Street, and authorize the City Manager to execute this Agreement.*

3. **Proposed Bonding Re: Citywide Capital Improvements.** The Fiscal Year 2009 Capital Improvement Plan which was approved by the City Council last April, identified \$4,775,000 of citywide improvements that would require bonding. Because of the economic situation, the city staff and I are recommending that that amount be reduced by \$1,275,000. The projects that the staff are recommending to move forward on are as follows:

- *Citywide Street Paving, Management and Rehabilitation - \$2,500,000:* (page 139 & 140 of the City's Capital Plan). In 1993, the City implemented a pavement Management Program to assist on prioritizing street rehabilitation. This bonding would fund the repairs to several streets (see the proposed streets for improvements attached) over a two-year period.

- *Citywide Sidewalk Reconstruction Program - \$500,000:* (page 110 & 111 of the City's Capital Plan). This program relies on a management program and is funded on a two-year schedule to address the need to upgrade existing sidewalk surfaces on a priority basis. The sidewalks scheduled for this bonding are:

Middle Street Phase II - \$250,000

Sewer Separation Project 2 - \$250,000

- *Replacement of Chiller System at the City Hall Municipal Complex - \$200,000.*
- *Gateway Improvements – Exit 7 - \$300,000:* (page 138 of the City's Capital Plan). This project is to facilitate specific improvements along the Market Street right-of-way as it extends from Exit 7 to the downtown. As part of the approved or pending projects, much work is being done at the Exit 7 interchange. These improvements arise from cooperative efforts between the City and the NHDOT. This project would continue efforts to enhance pedestrian traffic, provide some traffic calming measures and enhance to this corridor such as lighting, plantings, overlooks, etc. Funding for this project was identified in the Capital Improvement Plans for \$500,000 in bonding. The city staff believes that this could be reduced to \$300,000 to implement Phase I of the project which would be the improvements to the Deer Street intersection and improvements to Market to Russell Street.

The staff is recommending the delay of the following projects:

- Window replacements at City Hall - \$40,000
- Municipal Athletic Fields, Fencing, Bleachers, Safety Netting - \$150,000
- South Mill Pond Recreation Area – Tennis Courts Rehabilitation - \$150,000
- Connie Bean Center/Spinnaker Point – Facility Upgrades - \$100,000
- Public Works – Facility Upgrades - \$250,000
- Closed Circuit Camera System at the Police Department - \$50,000
- Building Improvements at the Police Department - \$60,000
- Scott Avenue Bridge Replacement - \$150,000
- Corporate Drive-Rye Street to Goose Bay Drive - \$125,000
- Gateway Improvements Exit 7 reduction of - \$200,000

These reductions total \$1,275,000, which would require a revised bond request of \$3,500,000 from the original request of \$4,775,000. (see attached proposed Bond Resolution.)

*I would recommend that the City Council authorize me to bring back for first reading a Bond for Citywide Improvements as listed in the amount of \$3,500,000.00 for the January 12, 2009 City Council Meeting. Please note that Bonding Resolutions require two readings and a public hearing and two-thirds vote of the City Council.*

4. **Request of School Department to Transfer \$550,000.00 to Fund Teacher's Collective Bargaining Contingency.** Attached is a letter from Dr. Robert J. Lister, Superintendent of Schools, requesting the transfer of \$550,000.00 from the FY09 collective bargaining contingency line item. In accordance with the City Charter, Section 7.16 – Transfer of Appropriations, Paragraph B, this transfer can be made with the approval of the City Council. All that is required is a vote of the City Council.

As you can see from Dr. Lister's letter, the cost of the teacher's contract for FY09 is estimated at \$667,081.00. Further, as he indicates, this will leave a shortfall of \$117,000.00, which the School Department will make an effort to absorb in the FY09 budget. Also, please note that there are still five (5) School Department contracts to be negotiated.

Dr. Lister will be in attendance to answer any questions regarding this matter.

*I would recommend the City Council move to authorize the City Manager to transfer \$550,000.00 from the FY09 Collective Bargaining Contingency Line Item.*

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

1. **Events Listing.** For your information, attached is a copy of the Events Listing updated after the last City Council meeting on November 24, 2008.
2. **Boarding House Permits.** Attached is a copy of a letter that the Legal Department sent to the following establishments for the renewal of the Boarding House Permits, which will come before the City Council sometime in January:
  - Brian D. Hogan, 21 Brewster Street
  - Dan's Rooms for Rent, 350-352 Hanover Street
  - Paul H. & Janet Nay White, 278 Cabot Street
3. **City Hours of Operation Re: Christmas & New Year's.** In the spirit of the holiday season, the hours of operation for City Hall, Recreation, Public Works Office and the Library will be from 8:00 a.m. to 3:00 p.m. on Wednesday, December 24, 2008 and Wednesday, December 31, 2008. The hours of operation for Public Works (excluding the office staff) will be from 7:30 a.m. to 3:00 pm.