

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, FEBRUARY 9, 2009 TIME: 7:00PM

AGENDA

- 6:00PM – ANTICIPATED “NON-MEETING” WITH COUNSEL RE: NEGOTIATIONS – RSA 91-A:2, I (b-c)

- I. CALL TO ORDER [7:00PM or thereafter]
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE (Presentation of Colors by Boy Scouts Troop 164)

PROCLAMATIONS

1. Read Across Portsmouth Day
2. National Nutrition Month

- V. ACCEPTANCE OF MINUTES – JANUARY 26, 2009

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARINGS

- A. RESOLUTION INCREASING THE MAXIMUM INCOME LIMIT FOR INDIVIDUALS QUALIFYING FOR THE ELDERLY REAL ESTATE TAX EXEMPTION TO \$32,589.00 FOR SINGLE AND \$40,201.00 FOR MARRIED AND TOTAL ASSETS MAY NOT EXCEED \$108,634.00 WHETHER SINGLE OR MARRIED
- B. RESOLUTION INCREASING THE MAXIMUM INCOME LIMIT FOR INDIVIDUALS QUALIFYING FOR THE DISABLED REAL ESTATE TAX EXEMPTION TO \$32,589.00 FOR SINGLE AND \$40,201.00 FOR MARRIED AND TOTAL ASSETS MAY NOT EXCEED \$108,634.00 WHETHER SINGLE OR MARRIED
- C. ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.344 – USE OF ROLLER SKATES, COASTERS, AND SKATE BOARDS

- VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant from the State of New Hampshire for Cities Readiness Initiative Exercise in the amount of \$16,849.00

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance amending Chapter 1, Article III, Section 1.304 – Recreation Board and Article IV, Section 1.411 – Peirce Island Committee are deleted in their entirety. Further, the creation of a new ordinance for Chapter 1, Article III, Section 1.304 entitled Recreation, Parks and Open Space Board
- B. Adoption of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Elderly Real Estate Tax Exemption to \$32,589.00 for single and \$40,201.00 for married and total assets may not exceed \$108,634.00 whether single or married
- C. Adoption of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Disabled Real Estate Tax Exemption to \$32,589.00 for single and \$40,201.00 for married and total assets may not exceed \$108,634.00 whether single or married
- D. Second reading of Ordinance amending Chapter 7, Article III, Section 7.344 – Use of Roller Skates, Coasters, and Skate Boards

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Donald Allison, Eastern States 20 Mile, requesting permission to hold the Eastern States 20 Mile Road Race on Sunday, March 29, 2009 (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from John Tabor, Seacoast Media Group, requesting permission to change the date of the Second Annual Sustainability Fair to Saturday, May 9, 2009 (***Anticipated action – move to refer to the City Manager with power***)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Shaun Rafferty regarding Affordable Housing
- B. Letter from John Dussi, Northern Tier Real Estate Acquisition & Development, LLC, seeking to remove the current glass atrium enclosure located at 172 Hanover Street to replace with a more permanent structure (***Sample motion – move to refer to the Planning Board for report back***)
- C. Letter from Kathie Lynch, Portsmouth Little League, Inc., requesting permission to affix signage to the fences surrounding the outfield and foul lines at Plains and Hislop fields from April 11, 2009 through the end of the summer program. Further, requesting permission to maintain signage to the rear of the Plains scoreboard (***Anticipated action – move to refer to the City Manager with power***)

- D. Letter from Kathie Lynch, Portsmouth Little League, Inc., requesting permission to place a beverage dispenser machine on the side of the Central Field Little League concession stand from mid-April through the end of October (**Sample motion – move to refer to the Recreation Board for report back**)
- E. Letter from Catherine Graham, National Passport Center, requesting permission to hold a Dog Walk charity event for the NHSPCA and The Humane Society on Sunday, April 26, 2009 at the Tradeport (**Sample motion – move to refer to the City Manager with power**)
- F. Letter from Marsie Silvestro, A Safe Place, requesting permission to hold a Dog Walk entitled “Keep Your Paws to Yourself” on Saturday, April 25, 2009 from 11:00 a.m. – 2:00 p.m. (**Sample motion – move to refer to the City Manager with power**)

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 Ordinance amending Chapter 1, Article III, Section 1.304 – Recreation Board and Article IV, Section 1.411 – Peirce Island Committee are deleted in their entirety. Further, the creation of a new ordinance for Chapter 1, Article III, Section 1.304 entitled Recreation, Parks and Open Space Board (**Action on this matter should take place under Section IX of the Agenda**)
- 2. Public Hearings/Adoption of Proposed Resolutions
 - 2.1 Public Hearings/Adoption of Elderly & Disabled Exemptions Resolutions (**Action on this matter should take place under Section IX of the Agenda**)
- 3. Public Hearing/Second Reading of Proposed Ordinance Amendment:
 - 3.1 Second Reading/Public Hearing of Proposed Ordinance Amending Chapter 7, Article III, Section 7.344 – Use of Roller Skates, Coasters, and Similar Devices (**Action on this matter should take place under Section IX of the Agenda**)

City Manager’s Items Which Require Action

- 1. Request to Renew Lease of 251 Bartlett Street by the Creek Athletic Club
- 2. Seacoast Growers’ Association (Farmers’ Market) Proposed 2009 License Agreement
- 3. Proposed Extension of Agreement with St. John’s Masonic Association for Use of their Parking Lot

Informational Items

1. Events Listing
2. Renewal of Sons of Italy Lease Agreement, 1 Plains Avenue
3. Report Back Re: Response to Councilor Novelline-Clayburgh's Request Regarding Additional Gymnasium at Middle School

B. MAYOR FERRINI

1. Appointments to be Voted:
 - Donald Coker – Reappointment to Planning Board
 - Charles Bradley – Portsmouth Housing Authority

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

(*Indicates verbal report)

INFORMATIONAL ITEMS

1. Zoning Board of Adjustment minutes of the November 18, 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: February 5, 2009
To: Honorable Mayor Thomas G. Ferrini and City Council Members
From: John P. Bohenko, City Manager
Re: City Manager's Comments on February 9, 2009 City Council Agenda

6:00 p.m. – Non-meeting with counsel.

For details on this matter, please refer to the confidential envelope inserted in the inside pocket of your binder.

Acceptance of Grants/Donations:

1. **Acceptance of Grant from State of New Hampshire Re: Cities Readiness Initiative Exercise.** As you know, Portsmouth heads a regional emergency planning team, the Portsmouth Area Emergency Planning Team (PAEPT), which is responsible for developing the capacity to respond to natural and man made disasters that have a significant impact on the City of Portsmouth and Towns of Greenland, New Castle, Newington, North Hampton and Rye. Due to the proximity of the Greater Portsmouth region in comparison to the Boston Metropolitan area, NH Homeland Security Emergency Management is requiring that the region participate in a Cities Readiness Initiative (CRI) exercise.

The State of New Hampshire has made a \$16,849.00 grant available to assist with the Cities Readiness Initiative (CRI) exercise. The CRI exercise will entail opening one of the region's Point of Dispensing (POD) locations for the purpose of antibiotic dispensing. Although the Greater Portsmouth region has participated in a variety of CRI exercises in the past, this exercise, which is scheduled for May 16, 2009, will give smaller towns within the region the opportunity to exercise their emergency plans. The exercise will simulate a 48-hour response, including a 12-hour step-up window to set-up the POD site.

Funds from the CRI grant will be utilized to recruit and train volunteers/staff, purchase supplies, and hold a table top exercise in preparation for the exercise. The CRI grant will also enable the purchase of supplies for the region's Acute Care Center (ACC)/POD trailer.

I would recommend the City Council move to authorize the City Manager to accept and expend a \$16,849.00 grant from the State of New Hampshire for the purpose of the Cities Readiness Initiative Exercise. 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 Ordinance amending Chapter 1, Article III, Section 1.304 – Recreation Board and Article IV, Section 1.411 – Peirce Island Committee are deleted in their entirety. Further the creation of a new Ordinance for Chapter 1, Article III, Section 1.304 entitled Recreation, Parks and Open Space Board.** As a result of the January 26th City Council meeting, under Section IX of the Agenda, I am bringing back for first reading the attached proposed ordinance amending Chapter 1, Article III, Section 1.304 Recreation Board and Article IV, Section 1.411 – Peirce Island Committee that are deleted in their entirety. Further, the creation of a new ordinance for Chapter 1, Article III, Section 1.304 entitled Recreation, Parks and Open Space Board. As requested by the City Council, it is proposed that first reading take place on Monday evening, that a work session be established for March 16, 2009 at 6:00 p.m. and subsequently, that a public hearing be held at the April 6, 2009 City Council meeting.

I would recommend the City Council move to pass first reading and establish a work session on March 16, 2009 at 6:00 p.m. and further, establish a public hearing on this matter at the April 6, 2009 City Council meeting. Action on this matter should take place under Section IX of the Agenda.

2. Public Hearings/Adoption of Proposed Resolutions.

- 2.1 **Public Hearings/Adoption of Elderly & Disabled Exemptions Resolutions.** As a result of the January 26th City Council meeting, under Section VII of the Agenda, I am bringing back two separate public hearings on the following:
- 1) Elderly Exemptions
 - 2) Disabled Exemptions

For your information, the aforementioned resolutions have to be voted separately, therefore, there are two public hearings.

Annually, 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 #7-2008 and #8-2008, which increased the income and asset levels for both the elderly and disabled exemptions by the rate of the Boston-Brockton-Nashua November 2006 through November 2007 consumer price index (CPI) of 3.4%.

The current elderly and disabled exemption income levels are \$31,640 for a single taxpayer, \$39,030 for married taxpayers, and an asset limit of \$105,470.

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

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

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

This year, the current November 2007 to November 2008 CPI is .7%. The latest COLA increase for Social Security benefits and SSI payments is 5.8% beginning December 2008. These differences may cause some taxpayers who currently receive the elderly and disabled exemptions to be disqualified due to the higher COLA adjustment received from Social Security.

As discussed at your last meeting, the City Council instructed me to bring back adjustments to these exemptions using the ten year average for the November to November CPI which is 3.0% rather than the one year average which was .7%. This ten year average will help reduce the number of taxpayers to be disqualified who currently receive either the disabled or elderly exemption.

If the City Council wishes to adjust the income and asset levels for both the elderly and disabled taxpayers by the current November to November ten year average CPI of 3.0%, this would increase the limits (rounded up) as follows:

Single	\$32,589 increase of \$ 949
Married	\$40,201 increase of \$1,171
Asset Limit of	\$108,634 increase of \$3,164

This adjustment would be for assessments as of April 1, 2009 for the 2009 tax year or FY10.

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 a revision of the existing resolutions as well as a public hearing on each resolution and a majority vote of the City Council. I have attached for your information the tax impact of the elderly and disabled exemptions for FY09 using the ten year average.

I would recommend the City Council move to make the following two separate motions:

- 1) *Move to adopt the Resolution for Elderly Exemptions, as presented. (Resolution requires two readings and a majority vote.) Action on this matter should take place under Section IX of the Agenda.*
- 2) *Move to adopt the Resolution for Disabled Exemptions, as presented. (Resolution requires two readings and a majority vote.) Action on this matter should take place under Section IX of the Agenda.*

3. **Public Hearings/Adoption of Proposed Resolutions and Ordinance Amendments.**

- 3.1 **Public Hearing/Second Reading of Proposed Ordinance Amending Chapter 7, Article III, Section 7.344 – Use of Roller Skates, Coasters, and Skate Boards.** As a result of the January 26, 2009 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 7.344 – Use of Roller Skates, Coaster, and Similar Devices to reflect a new title Use of Roller Skates, Coasters and Skate Boards as well as other changes to the ordinance. The City Council approved the minutes of the December 11, 2008 Traffic and Safety Committee, which requested an ordinance change regarding roller skates, skateboards and similar devices.

I would recommend the City Council move to pass second reading and schedule a third and final reading of the proposed ordinance amendment, as submitted, at the March 2, 2009 City Council meeting. Action on this matter should take place under Section IX of the Agenda.

City Manager's Items Which Require Action:

1. **Request to Renew Lease of 251 Bartlett Street by the Creek Athletic Club.** As a result of the January 12th City Council meeting, I am bringing back for review and action the a request from George McKenna, President of the Creek Athletic Club, to renew the Lease Agreement, which is scheduled to expire on March 31, 2009. The request is for a one-year extension effective April 1, 2009 through March 31, 2010.

For your information, I have attached the following:

- 1) Summary of activities of the Creek Athletic Club for 2008 as requested by the City Council.
- 2) Memorandum from City Assessor Rosann Maurice-Lentz providing two lease payment options: 1) utilizing the estimated taxes and 2) utilizing an estimated per square foot cost.
- 3) Proposed Lease

I would recommend that the City Council utilize the estimated tax amount of \$2,046.00 as the lease arrangement for 2009. This is a \$546.00 increase over 2008. In meetings with representatives from the Creek Athletic Club, they feel that this would continue to make them financially viable. In further discussions with representatives from the Creek Athletic Club, we discussed the many repairs that will be needed in future years on the building e.g. (roof, exterior, siding, and heating). If this lease is extended for this year, I have recommended for them to come back in 2010 with a comprehensive capital improvements program that they would implement in exchange for future consideration.

I would recommend that the City Council move to extend the Lease for 2009 with an annual lease payment of \$2,046.00.

2. **Seacoast Growers' Association (Farmers' Market) Proposed 2009 License Agreement.** Attached is a copy of a letter from Celeste Gingras, President of the Seacoast Growers' Association, requesting renewal of their License Agreement. Also, attached is a draft of the proposed 2009 License Agreement with the Seacoast Growers' Association to allow a Farmers' Market at the municipal complex. The Seacoast Growers' Association has been conducting their Farmers' Market at the municipal complex over the past eight years.

If this draft agreement meets with the approval of City Council, I would ask that you authorize me to enter into the proposed agreement between the Seacoast Growers' Association and the City of Portsmouth for a License Agreement to conduct their Farmers' Market for 2009. I've requested that Celeste Gingras, President, of the Seacoast Growers' Association be in attendance on Monday evening to answer any questions you may have regarding this matter.

I would recommend the City Council move to authorize the City Manager to enter into a License Agreement with the Seacoast Growers' Association, as presented.

3. **Proposed Extension of Agreement with St. John's Masonic Association for Use of their Parking Lot.** Since 1999, the City has been leasing the St. John Masonic Association's parking lot at 351 Middle Street. The parking lot is close to downtown and has sixty-nine (69) parking spaces. In the Agreement, the parking lot would be open to the public Monday through Saturday from 6:00 a.m. to 7:30 p.m. each day. For your information, I have attached a copy of the proposed Agreement with the Masonic Association outlining all the terms and conditions for the use of the lot. In exchange for the use of the lot, the City will pay the Association \$21,000.00 a year in two installments. The funds for the payment of the lease for the parking lot will come from the Unmet Parking Needs Credit Account.

I would recommend the City Council move to authorize the City Manager to enter into this Agreement with St. John's Masonic Association from January 1, 2009 through December 31, 2009.

Informational Items:

1. **Events Listing.** For your information, attached is a copy of the Events Listing updated after the last City Council meeting on January 26, 2009.
2. **Renewal of Sons of Italy Lease Agreement, 1 Plains Avenue.** Be advised that we have been unable to arrange a meeting time with the Sons of Italy to discuss the proposed renewal of their Lease extension. Therefore, I will bring back this matter for your review and action at the March 2nd City Council meeting.
3. **Report Back Re: Response to Councilor Novelline-Clayburgh's Request Regarding Additional Gymnasium at Middle School.** At your January 26th City Council meeting, Councilor Novelline-Clayburgh asked a question about the possibility of closing the Connie Bean and building an additional gymnasium at the Middle School to house the recreation programs and offices that presently exist at the Connie Bean. This proposal was explored approximately one year ago with City staff and the School Department. Because of the cost at that time, it was determined to not move forward on this matter.

As you are aware, over the past year, the Connie Bean Center has experienced more issues as it relates to life safety codes, as well as handicapped accessibility. Presently, the only part of the Connie Bean Center that is being used is the gymnasium and the offices on the main floor. The basement, as well as the second and third floor is no longer being used because of concerns as it relates to a life safety.

Further, there are some difficulties with handicapped accessibility at this building. On Monday, February 2, 2009, I met with representatives from the School Department, as well as City staff to discuss the possibility of closing the Connie Bean and relocating recreation programs to an additional gymnasium at the new Middle School site.

It is estimated that the cost of adding a gymnasium to the Middle School would be approximately \$2 Million (see attached estimate from JCJ). This would include a 7,000

square foot gymnasium, as well as offices for the recreation staff. Further, it would be the intent, if the relocation were to take place that the Middle School athletic director responsibility would come under the auspices of the Recreation Department, similar to what occurs at the High School. This would allow the Recreation Department to be the sole coordinator for all athletic programs for the Recreation Department, High School and the Middle School.

If the City Council were to proceed with relocating the Connie Bean activities to a new gymnasium at the Middle School, I would recommend that it be a separate bond issue, inasmuch as the Department of Education has indicated that because this would be a second gymnasium that reimbursement would not be made available. Further, this would not confuse the conversation as it relates to the Middle School program.

It would be my intent to recommend that the Connie Bean Center be leased to a private developer through a ninety-nine year ground lease (similar to Pease Tradeport lease). This would allow for the City to collect both ground lease payments and taxes on a renovated building. It would be my intent to utilize receipts from the ground lease payments to help offset the cost of the bond issue for this new gymnasium.

There is an issue that still remains with the Connie Bean as it relates to deed restriction. I have attached a copy of a Memorandum from Suzanne M. Woodland, Assistant City Attorney regarding this matter.

On a separate issue, the City staff, as well as the School staff felt that because of the expansion of the gymnasium would require further reduction in parking around the Library and Middle School that the potential for a parking deck at the Parrott Avenue lot be explored. We have been told by the State Department of Education that this parking structure could be reimbursed at a rate of 40% if the spaces would be made available to the Middle School staff Monday thru Friday from 6:30 a.m. to 3:30 p.m. The parking structure would be very much in keeping with the historical nature of the area, as well as sustainability design. I await your direction on this matter. Please do not hesitate to contact me if I can provide any additional information.