

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, MAY 18, 2009 TIME: 7:00PM

AGENDA

- 6:15PM – 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

- V. ACCEPTANCE OF MINUTES – MAY 4, 2009

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARING
 - A. ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.344 – USE OF ROLLER SKATES, COASTERS AND SKATEBOARDS

- VIII. APPROVAL OF GRANTS/DONATIONS
 - A. Acceptance of Community Development Block Grant Funds

- IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES
 - A. First reading of Ordinance amending Chapter 7, Article IV, Section 7.408 – Peirce Island Boat Launch Overnight Parking
 - B. First reading of Resolution Authorizing Borrowing in Anticipation of Revenues and Taxes in the amount of \$16,000,000.00
 - C. Second reading of Ordinance amending Chapter 7, Article III, Section 7.344 – Use of Roller Skates, Coasters and Skateboards

- X. CONSENT AGENDA
 - A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA***
 - A. Letter from Liam Carmichael requesting to install a stop light on the corner of Cass Street and Middle Street (***Anticipated action – move to refer to the Traffic & Safety Committee***)

- B. Renewal of Sidewalk Obstruction Licenses with no changes from last year
 - RiverRun Bookstore – 1 Table
 - Six Degrees A Unique Salon – 1 A-frame sign

(Anticipated action – move to refer to the City Manager with power)
- C. Letter from Andrew Nitschelm, Water Country, requesting permission to hold a City Employee’s Day at Water Country on Saturday, June 27, 2009 from 11:30 a.m. – 6:00 p.m. (rain date Sunday, June 28, 2009) ***(Anticipated action – move to refer to the City Manager with power)***

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Patricia Taylor, Frank Jones Farm Neighborhood Group, requesting permission to erect a historical marker on city-owned land across from Market Basket on the corner of Woodbury Avenue and Market Street Extension ***(Sample motion – move to City Manager with power)***
- B. Letter from Jack Kimball, Granite State Patriots, requesting permission to hold a Remember our Fallen Soldiers event on Monday, May 25th at 5:30 p.m. – 7:30 p.m. in front of Market Square in front of the North Church with a sound system and small portable podium ***(Sample motion – move to refer to the City Manager with power)***
- C. Letter from Dawn McCandless, Agave Mexican Bistro, requesting a license agreement for the purpose of valet parking

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 and Resolution Amendments:
 - 1.1 First Reading of proposed Ordinance to amend Chapter 7, Article IV, Section 7.408 – Peirce Island Boat Launch Overnight Parking ***(Action on this matter should take place under Section IX of the Agenda)***
 - 1.2 First reading of Resolution Authorizing Borrowing in Anticipation of Revenues and Taxes in the amount of \$16,000,000.00 ***(Action on this matter should take place under Section IX of the Agenda)***
- 2. Public Hearing/Second Reading of Proposed Ordinance Amendments:
 - 2.1 Public Hearing/Second Reading of Proposed Ordinance to amend Chapter 7, Article III, Section 7.344 – Use of Roller Skates, Coasters and Skateboards ***(Action on this matter should take place under Section IX of the Agenda)***

City Manager's Items Which Require Action

1. Report Back from Planning Board Re: 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
2. Request for Approval of Professional Management Association Collective Bargaining Agreement to expire June 30, 2014
3. Proposed Funding Re: Public Undeveloped Lands Assessment

Informational Items

1. Events Listing
2. Firm Selection Re: Comprehensive Recreation Needs Study

B. MAYOR FERRINI

1. Appointments to be Considered:
 - Maryann Blanchard – Appointment as Regular member to Conservation Commission
2. Appointments to be Voted:
 - Brian Gregg – Reappointment to the Cable Television and Communications Commission
 - Phyllis Eldridge – Reappointment to the Trustees of the Trust Fund
3. *Status Update on Portsmouth Middle School
4. *Reports

C. ASSISTANT MAYOR BLALOCK

1. Proposed City Council Policy #2009-04 Re: Vending

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 April 1, 2009 meeting
2. Zoning Board of Adjustment minutes of the March 17, 2009 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: May 14, 2009
To: Honorable Mayor Thomas G. Ferrini and City Council Members
From: John P. Bohenko, City Manager
Re: City Manager's Comments on May 18, 2009 City Council Agenda

6:15 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 Community Development Block Grant Funds.** U.S. Housing and Urban Development has informed the City that a Community Development Block Grant (CDBG) in the amount of \$655,821.00 will be made available to Portsmouth for FY 2009-2010. The Community Development Department, working in conjunction with the City's Citizens Advisory Committee, held a series of public hearings and meetings over the last several months to solicit input and prioritize projects with regard to the expenditure of these funds. Due to delays at U.S. HUD in publishing the grant amount, the draft budget is currently being developed and will be completed in the next few weeks. A copy of the budget will be forwarded to the City Council when it is available.

In addition to this grant funding, the City is eligible to receive \$175,606.00 in Community Development Block Grant funds as part of the American Recovery and Reinvestment Act of 2009 (ARRA). These additional funds may permit the City to expedite the remaining phases of the Raleigh Way Streetscape Improvement Project in the Atlantic Heights. The project is in keeping with the intent of the ARRA, in that jobs will be created in pursuit of infrastructure improvements. The expenditure of these additional CDBG grant funds will also be planned in conjunction with the CDBG Citizens Advisory Committee and additional information about the use of this funding will be forthcoming.

I would recommend the City Council move the following motions:

1. *Move to accept and expend a Community Development Block Grant (CDBG) in the amount of \$655,821.00 from the U.S. Department of Housing and Urban Development.*
2. *Move to accept and expend an American Recovery and Reinvestment Act of 2009 Community Development Block Grant (CDBG) in the amount of \$175,606.00 from the U.S. Department of Housing and Urban Development.*

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 proposed Ordinance to Amend Chapter 7, Article IV, Section 7.408 – Peirce Island Boat Launch Overnight Parking.** At the May 4th City Council meeting, under Councilor Smith's name, the City Council authorized the City Manager to bring back for first reading the [attached proposed ordinance amendment](#) to Chapter 7, Article IV, Section 7.408 – Peirce Island Boat Launch Overnight Parking.

I would recommend that the City Council move to pass first reading and schedule a public hearing and second reading at the June 8, 2009 City Council meeting as submitted. Action on this matter should take place under Section IX of the Agenda.

- 1.2 **First Reading of Resolution Authorizing Borrowing in Anticipation of Revenues and Taxes in the Amount of \$16,000,000.00.** [Attached under Section IX of the Agenda is a Resolution](#) for FY10 authorizing borrowing in anticipation of taxes. As you are aware, by state law, the City bills for property taxes twice a year in arrears. For example, the first half tax bill in FY10 will be issued in October and is not due until December 1, 2009 even though our fiscal year starts on July 1, 2009. Similarly, the second half bill is not due until June 1, 2010.

Because property taxes constitute our single largest source of revenue, this lag in billing may cause a temporary cash flow problem for us in both the beginning and the middle of the fiscal year. If necessary, this resolution would allow us to borrow money on a short-term basis until the property taxes come in. The [attached Resolution](#) requires two readings of the City Council and Public Hearing.

I would recommend the City Council move to pass first reading and hold a Public Hearing and adoption of the Resolution at the June 8th City Council meeting. Please note that borrowing resolutions need only two readings and must be adopted by a two-thirds vote of the City Council. Action on this matter should take place under Section IX of the Agenda

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

2.1 **Public Hearing/Second Reading of Proposed Ordinance Amending Chapter 7, Article III, Section 7.344 - Use of Roller Skates, Coasters and Skateboards.**

As a result of the April 20th City Council meeting under Section VII, of the Agenda, I am bringing back for public hearing and second reading the [attached proposed ordinance amendment](#) to Chapter 7, Article III, Section 7.344 – Use of Roller Skates, Coasters and Skateboards.

I would recommend the City Council move to pass second reading and schedule a third and final reading at the June 8th City Council Meeting. Action on this matter should take place under Section IX of the Agenda.

City Manager's Items Which Require Action:

1. **Report Back from Planning Board Re: 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.**

As you will recall, at the February 9th City Council meeting, the Council referred the request from John Dussi, Northern Tier Real Estate Acquisition & Development, LLC, on whether to allow the present glass enclosure to be removed and replaced with a more permanent structure to the Planning Board for a report back. [Attached is a copy of a memorandum](#) from David Holden, Planning Director, outlining the recommendation of the Planning Board.

Based on the factors stated in the memorandum, the Planning Board essentially found that a more permanent encroachment would not be in the City's best interests. The following recommendation was approved and is provided for the Council's consideration:

1. That the Board advises the Council that more permanent encroachments should not be allowed within this right-of-way;
2. That the public's interest in this right-of way is significant and should be retained and maintained so as to meet future public needs;
3. That no permanent easements should be authorized by the City;
4. That properly drafted, a License Agreement could be prepared/approved that would protect the City's interest in this right-of-way and allow for existing (or modified) encumbrances;
5. That conceptually the Board would favorably recommend that minor modifications should be allowed to the existing structure subject to the Board's review and the offering of favorable recommendation to the Council concerning this design; and,

6. That a new License Agreement between the City and Mr. Dussi shall be prepared/approved as to content and form by the Legal Department and approved by the City Council or as appropriate.

Update: Since the Board's action on March 19th, no actions have been pursued by Mr. John Dussi. The department does not anticipate any further action at this time.

I would recommend the City Council move to deny this request based on the recommendation of the Planning Board, as submitted.

2. **Request for Approval of Professional Management Association Collective Bargaining Agreement to expire June 30, 2014.** As you are aware, the City Council has met with the City Labor Negotiator Thomas Flygare regarding the aforementioned subject matter. This proposed Collective Bargaining Agreement is for the period from July 1, 2008 through June 30, 2014.

The Agreement calls for no salary increase for the period July 1, 2009 through June 30, 2010. The salaries thereafter will be adjusted with a ten year rolling average of the CPI. Further, there will be a salary adjustment from July 1, 2008 through June 30, 2009 in accordance with the ten year rolling average of the CPI. This Agreement will also cover non-union employees as well.

The City will be saving approximately \$136,000.00 in salaries and benefits because PMA and Non-Union employees are not taking a raise in FY10.

For your information and in order to facilitate discussion on this matter, [attached please find the following documents](#):

1. A letter from Thomas Flygare, City Negotiator outlining the salient points of the Proposed Tentative Agreement.
2. A Proposed Contract showing the insertions and deletions to implement this Agreement is approved.
3. Breakdown of Savings.

I would recommend the City Council move to accept the proposed contract with the Professional Management Association to expire on June 30, 2014.

3. **Proposed Funding Re: Public Undeveloped Land Assessment.** In accordance with the City Council's June 16, 2008 vote, a Request for Proposals (RFP) for a Public Undeveloped Land Assessment on City-owned land was issued ([see attached RFP](#)). In response, 12 firms submitted proposals varying in price from \$19,475.00 to \$85,450.00. A selection committee comprised of the Chairman of the Conservation Commission Steve Miller; Deputy City Manager Cindy Hayden; Environmental Planner Peter Britz; and Planning Consultant Rick Taintor short listed 4 firms. The firm that was unanimously selected to do this work will do so for a lump sum fee of \$27,330.00.

The Conservation Commission will utilize the information provided to conduct an assessment of City owned undeveloped land to determine their natural resource value, current limitations and the degree to which these parcels provide natural resource functions beyond their boundaries. As you know, the Conservation Fund is not part of the City's General Fund. These are funds that are set aside for conservation purposes from the current use taxation penalty. On May 13th the Conservation Commission voted to recommend the expenditure of \$27,330.00 from the Conservation Fund for the work described. [See attached letter from Steve Miller](#) for additional information.

I would recommend that the City Council move to approve, as recommended by the Conservation Commission, the expenditure of \$27,330.00 to hire a consultant to conduct a citywide Public Undeveloped Land Assessment.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on May 4, 2009. As you can see on the listing, I have highlighted those dates that will have two events going on at the same time.
2. **Firm Selection Re: Comprehensive Recreation Needs Study.** As you know, over the past several months, the City has taken steps to undertake a comprehensive recreational needs study. The City has selected "The Architectural Team" of Chelsea, MA to carry out this study in close coordination with the Recreation Board and City staff. A kick-off meeting for staff and the Recreation Board will be held on May 20th at 6:30 p.m., in Conference Room A, at Portsmouth City Hall.

"The Architectural Team" is an architectural design firm with over 37 years of experience in the creation of urban mixed-use developments, recreational and academic facilities and historical renovation projects throughout New England. Sub-consultants that will be part of the study team are Ballard*King and Associates (recreational planner); Water Technology (aquatics infrastructure); Copley Wolf Design Group (parks and recreation landscape architecture); and Barker-Seacat Architecture (recreational architecture). [Attached are descriptions of the firms, as well as a copy of the scope of work for the study.](#)

Please do not hesitate to contact me if you would like any additional information.