

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, JUNE 8, 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

1. Mayor's Awards to Portsmouth High School Girls' Tennis Team – State Champions

- V. ACCEPTANCE OF MINUTES – MAY 11, 2009 AND MAY 18, 2009

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARINGS

- A. ORDINANCE AMENDING CHAPTER 7, ARTICLE IV, SECTION 7.408 – PEIRCE ISLAND BOAT LAUNCH OVERNIGHT PARKING

- B. RESOLUTION AUTHORIZING BORROWING IN ANTICIPATION OF REVENUES AND TAXES IN THE AMOUNT OF \$16,000,000.00

- VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donations to the Coalition Legal Fund

- Town of Rye - \$1,000.00
- Town of Bridgewater - \$1,200.00
- Town of Newington - \$2,000.00

- B. Acceptance of Stormwater Utility Feasibility Study Grant - \$27,500.00

- C. Acceptance of US Fish and Wildlife Service Funding - \$5,000.00

- IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second reading of Ordinance amending Chapter 7, Article IV, Section 7.408 – Peirce Island Boat Launch Overnight Parking

- B. Adoption of Resolution Authorizing Borrowing in Anticipation of Revenues and Taxes in the amount of \$16,000,000.00

- C. Third and final 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 Laurie Mantegari, Greater Portsmouth Chamber of Commerce, requesting permission to hold the 14th Annual Harbor Trail Road Race on Saturday, July 11, 2009; further request the vehicles be prohibited from parking on Parrott and Junkins Avenue after business hours Friday, July 10, 2009 (***Anticipated action – move to refer to the City Manager with power***)
- B. Acceptance of Donation from the Portsmouth Police Ranking Officers Association in support of the Portsmouth Explorer Cadets in the amount of \$100.00 (***Anticipated action – move to accept and approve the donation to the Portsmouth Explorer Cadets, as listed***)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Doug Bates, President, Greater Portsmouth Chamber of Commerce regarding Market Square Informational Kiosk

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 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***)
- 2. Public Hearing:
 - 2.1 Public Hearing/Adoption 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***)
- 3. Third and Final Reading of Proposed Ordinance Amendments:
 - 3.1 Third and Final 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. Request for Approval of Five (5) Separate Collective Bargaining Agreements to Expire June 30, 2014
 - Supervisory Management Alliance's Tentative Agreement
 - Portsmouth Association of Clericals in Education's Tentative Agreement
 - Custodial Supervisors' Tentative Agreement
 - Portsmouth Paraprofessional Association's Tentative Agreement
 - Association of Portsmouth School Administrator's Tentative Agreement
2. Shoreland Exemption for Poco Deck Relocation
3. Exchange of Property Interests Between the City and Portsmouth Navigation Corporation
4. Reduction to Prescott Park Dock Seasonal Rental Rates
5. Request to Enter into a Revised License Agreement Re: 68 State Street
6. Memorandum Of Understanding (MOU) and Agreement between City and Art-Speak
7. Proposed Policy Re: Public Gathering in Market Square
8. Proposed Repairs to South Meeting House
9. Request for Approval of PSNH Pole Licenses #63-0475 and #63-0476
10. Request for Approval of TCG New Jersey AT&T License Agreement
11. Request for a License from Jodie Curtis of Re-Enhabit, LLC, for property located at 15 Daniel Street to install a projecting sign
12. Request for a License from Michael Labrie of Riverhouse Restaurant Group, LLC, for property located at 53 Bow Street to install a projecting sign
13. Request for a License from Joe Hickey of Blue Athletic, Inc. for property located at 67 Bow Street to install a projecting sign
14. Proposed Half-Day Work Session Re: Review of Proposed Zoning Ordinance
15. Economic Revitalization Zone Tax Credit Request Re: High Liner Foods

Informational Items

1. Events Listing

B. MAYOR FERRINI

1. Appointments to be Considered:
 - Elena Maltese – Reappointment to the Historic District Commission
 - Jeffrey Mountjoy – Reappointment to the Portsmouth Housing Endowment Fund
 - Arlene Corriveau – Appointment to Peirce Island Committee
 - Harold Hapgood – Appointment to Peirce Island Committee
 - Heather Hurtt – Appointment to the Recreation Board
 - Carl Diemer – Reappointment to the Recreation Board
 - Kathy Birse Siegel – Reappointment to the Recreation Board
2. Appointments to be Voted:
 - Maryann Blanchard – Appointment as Regular member to Conservation Commission
3. City Council Policy #2009-01 Re: Board & Commission Quarterly Reports
4. *Status Update on Portsmouth Middle School
5. *Reports

C. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the May 14, 2009 meeting
2. Parking Committee Action Sheet and Minutes of the May 14, 2009 meeting

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

(*Indicates verbal report)

INFORMATIONAL ITEMS

1. Conservation Commission minutes of the April 8, 2009 meeting
2. Site Review Technical Advisory Committee minutes of the May 5, 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: June 4, 2009
To: Honorable Mayor Thomas G. Ferrini and City Council Members
From: John P. Bohenko, City Manager
Re: City Manager's Comments on June 8, 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.

Presentation:

7:00 p.m.

Mayor's Awards to Portsmouth High School Girls' Tennis Team – State Champions.

Acceptance of Grants/Donations:

1. **Acceptance of Donations to the Coalition Legal Fund.** Attached are copies of checks from the Town of Rye in the amount of \$1,000.00; the Town of Bridgewater in the amount of \$1,200.00 and the Town of Newington in the amount of \$2,000.00, 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 donations, as listed, to be placed in the Coalition Legal Fund. Action on this matter should take place under Section VIII of the Agenda.

2. **Acceptance of a Stormwater Utility Feasibility Study Grant.** In March 2009, the Department of Public Works (DPW) applied for a grant from the New Hampshire Department of Environmental Services (NH DES) to conduct a feasibility study to determine whether a stormwater utility is an appropriate funding approach for the City of Portsmouth. In April, the DPW was awarded grant funding for the study. The grant is for \$27,500.00. The City will be matching the grant through time/labor and \$22,500.00 set aside in the sewer operating budget for Fiscal Year '09. The total amount of the study is \$50,000.00. The feasibility study will take a group of staff, elected officials and citizens through all the key aspects of utility development without committing to utility development until all concerned agree it is the right way to go.

As you are aware, the City is faced with several compelling factors magnifying the need for funding to increase stormwater management activities. These factors include increased federal regulatory requirements – the EPA 2008 Draft Stormwater Permit requirements would impose a \$2.1 million increase in the City's budget.

Additional compelling factors are that the City has some of the oldest stormwater infrastructure in the state; having numerous surrounding water bodies that are listed as impaired due to both local and regional upstream pollution sources; and having some of the highest development density in the state.

The feasibility study will cover governance, public outreach, and identify program priorities - problems and needs, funding development, and database management issues. The study will evaluate the different types of stormwater funding mechanisms, ranging from annual taxes to user fees, types of user fees, as well as assess the implementation costs associated with a stormwater utility.

Since a stormwater utility is still a fairly new concept and not always fully understood, the study would also look to educate community decision makers, municipal employees and its residents on the benefits and limitations of using a stormwater utility to fund stormwater management needs.

I would recommend the City Council move to accept and expend a \$27,500.00 DES grant for the purpose of a stormwater utility feasibility study and authorize the City Manager to execute any documents which may be necessary for this grant contract. Action on this matter should take place under Section VIII of the Agenda.

3. **Acceptance of US Fish and Wildlife Service Funding.** A saltmarsh restoration project at Mill Pond Way on North Mill Pond in Portsmouth is proposed by, and under the direction of, Dr. Dave Burdick, Estuarine Ecologist with the University of New Hampshire ([proposed work plan attached](#)). The project will be carried out in conjunction with the City and students from the New Franklin School.

The US Fish and Wildlife Service, Partners for Wildlife Program has committed \$5,000.00 to fund part of the restoration work proposed for North Mill Pond. This work will help restore the tidal marsh and upper shoreline of property recently

acquired by the City along Mill Pond Way where a previous owner had filled the tidal marshes. The current shoreline has a small berm of older fill materials sitting on low marsh. This project will remove the berm and re-establish a gradually sloping tidal marsh that includes a high marsh as well as the existing low marsh. The restoration area will extend 200 feet along the shoreline frontage of the property.

The work will include three bands of activities: planting of shrubs chosen to benefit wildlife (supertidal), high and low marsh plants (intertidal), and addition of ribbed mussels (in existing low marsh), together restoring approximately 12,000 square feet of shoreline. The City's role in the project is the removal of the berm where the saltmarsh will be planted.

I would recommend the City Council move to, accept and expend a \$5,000.00 grant from the U.S. Fish and Wildlife Service, Partners in Wildlife Program for the purpose of restoring a section of shoreline along the North Mill Pond. 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 proposed Ordinance to Amend Chapter 7, Article IV, Section 7.408 – Peirce Island Boat Launch Overnight Parking.** As a result of the May 18th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the proposed [attached 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 second reading and schedule a third and final reading at the June 22, 2009 City Council meeting as submitted. Action on this matter should take place under Section IX of the Agenda.

2. **Public Hearing:**

2.1 **Public Hearing/Adoption of Resolution Authorizing Borrowing in Anticipation of Revenues and Taxes in the Amount of \$16,000,000.00.** As a result of the May 18th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and adoption the [attached 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 adopt the Resolution, as presented. 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.

3. **Third and Final Reading of Proposed Ordinance Amendments:**

- 3.1 **Third and Final Reading of Proposed Ordinance Amending Chapter 7, Article III, Section 7.344 - Use of Roller Skates, Coasters and Skateboards.**
As a result of the May 18th City Council meeting, under Section IX of the Agenda, I am bringing back for third and final reading the [attached proposed ordinance amendment](#) to Chapter 7, Article III, Section 7.344 – Use of Roller Skates, Coasters and Skateboards.

[Attached is a copy of a memorandum](#) from Councilor Clayburgh and Councilor Hejtmanek regarding this ordinance.

I would recommend the City Council move to pass third and final reading of the proposed ordinance, as submitted. Action on this matter should take place under Section IX of the Agenda.

Consent Agenda:

1. **Acceptance of Police Department Donation.** [Attached under Section X 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. A donation in the amount of \$100.00 from the Portsmouth Police Ranking Officers Association in support of the Portsmouth Explorer Cadets.

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 X of the Agenda.

City Manager's Items Which Require Action:

1. **Request for Approval of Five (5) Separate Collective Bargaining Agreements to Expire June 30, 2014.** As you are aware, the City has reached Tentative Agreements with the Supervisory Management Alliance, School Administrators, Paraprofessionals, Custodial Supervisors and the School Clericals. In each of these proposed Collective Bargaining Agreements, they have all agreed to accept a wage freeze for FY10 (July 1, 2009 through June 30, 2010). As with the other Agreements, they will be eligible for a 3.14% increase effective July 1, 2008 through June 30, 2009. [Attached are the following Agreements](#) for your review and approval:
 - a) **Supervisory Management Alliance**
 - The Supervisory Management Alliance's Tentative Agreement outlining the provisions of the agreement. The average cost of the six year agreement is 2.95% per year. This average increase does not reflect any savings the city will get due to the overtime concessions.
 - b) **Portsmouth Association of Clericals in Education**
 - The Portsmouth Association of Clericals in Education's Tentative Agreement outlining the provisions of the agreement. The average cost of the Clerical's Agreement over the course of the six year agreement is 2.05% per year.
 - c) **Custodial Supervisors**
 - The Custodial Supervisors' Tentative Agreement outlining the provisions of the agreement. The average cost of the Custodial Supervisor's Agreement for the six year period is 2.07% per year. This increase does not reflect any savings the school will get due to the overtime concessions.
 - d) **Portsmouth Paraprofessional Association**
 - The Portsmouth Paraprofessional Association's Tentative Agreement outlining the provisions of the agreement. The average cost of the six year agreement is 2.26% per year.
 - e) **Association of Portsmouth School Administrator**
 - The Association of Portsmouth School Administrator's Tentative Agreement outlining the provisions of the agreement. The average cost of the School Administrator's contract over the course of the six year agreement is 2.43% per year.

Please note the Supervisory Management Alliance Tentative Agreement is under the auspice of the City Manager. The remaining four (4) Agreements listed have been approved by the School Board.

If adopted, these Collective Bargaining Agreements will save the City approximately \$164,000.00 in salary and benefits because they will not be receiving any raise for FY10 (General Fund savings is approximately \$147,000.00). For your information, the total savings with the PMA Agreement and non-union employees not taking a raise for FY10 plus these additional five (5) Collective Bargaining Agreements total over \$300,000.00 in savings for FY10.

I would recommend that the City Council adopt each of these proposed Tentative Agreements separately with the following Motions:

- 1. Move to adopt the Supervisory Management Alliance's Tentative Agreement to expire on June 30, 2014.*
 - 2. Move to adopt the Portsmouth Association of Clericals in Education's Tentative Agreement to expire on June 30, 2014.*
 - 3. Move to adopt the Custodial Supervisors' Tentative Agreement to expire on June 30, 2014.*
 - 4. Move to adopt the Association of Portsmouth School Administrator's Tentative Agreement to expire June 30, 2014.*
 - 5. Move to adopt the Portsmouth Paraprofessional Association's Tentative Agreement to expire June 30, 2014.*
2. **Shoreland Exemption for Poco Deck Relocation.** The State Comprehensive Shoreland Protection Act has recently been amended. The amendments require that a Shoreland Permit be secured for work within 250-feet of the water, an area described as shoreland buffer. The Act has a provision that allows for municipalities to request that the state exempt all, or part of, the protected shoreland if the municipality finds that "special local urbanization conditions exist in the protected shoreland for which the exemption is sought." Further, the state has indicated that such an exemption can only be sought for an entire lot (or lots), not, for example, just the portion of the lot where construction will take place.

As you know, the Poco Diablo outdoor restaurant deck will be relocated at the end of this season to the area immediately adjacent to the rear of the Bow Street building at the corner of Ceres Street on private property owned by Anthony DiLorenzo (Map 106 Lot 48 and Map 106 Lot 49). This new location is within 50 feet of the water where, according to the state shoreland regulations, no buildings are allowed. Given the highly developed nature of this site and the buildings and uses that have existed there for well over one hundred years, the "special local urbanization conditions" that are referenced in

the state shoreland law as pre-requisite in order to seek an exemption, exist on the site. In fact, this is precisely the type of situation envisioned by the State for which an exemption from the Comprehensive Shoreland Act *should* be sought. This is the same process followed by the property owner and the City in requesting that 99 Bow Street be exempted from the Shoreland Act. Of added significance in this case is the fact that the relocation of this deck is essential to the construction of public park improvements on the adjacent City-owned lot.

Given all of the above, staff strongly supports the request to the state that Map 106 Lot 48 and Map 106 Lot 49 be exempted from the State Shoreland Protection Act. [Enclosed on the inside cover of your packet is information](#) required by the State statute and NH Department of Environmental Services (NHDES) rules for the purpose of requesting that the State grant an exemption to the Comprehensive Shoreland Protection Act.

I would recommend the City Council authorize the City to make a formal request to the NHDES seeking an exemption from the Comprehensive Shoreland Protection Act for Map 106 Lot 48 and Map 106 Lot 49 and to take any further action that may be necessary to secure an exemption for this property.

3. **Exchange of Property Interests Between the City and Portsmouth Navigation Corporation.** As you know, planning, design and permitting are underway to improve the Bow Street – Ceres Street waterfront. As part of this effort, the Poco Diablo outdoor restaurant deck, which currently sits in the center of the small City-owned lot at the corner of Bow and Ceres Streets, will be relocated to the rear of the Bow Street building at the corner of Ceres Street owned by Anthony DiLorenzo. Public improvements to the City’s parcel will include resurfacing, drainage improvements, seating, landscaping, pedestrian scale lighting and additional aesthetic improvements and site amenities.

A portion of the small City-owned lot is also occupied by a trash compactor, which is utilized by a number of waterfront businesses and is necessary to their restaurant operations. In order to further improve this area for public use, Portsmouth Navigation Corporation at 34 Ceres Street has agreed to a land swap such that they will receive 183 square feet of land that is currently owned by the City and consists of a narrow slice of property running to the water along the City-Portsmouth Navigation fence line perpendicular to Ceres Street. In turn, the City will receive 173 square feet of land on the corner of Portsmouth Navigation’s property adjacent to Ceres Street and the City-owned lot. This will enable the compactor enclosure to be moved back into this area to open up the City-owned parcel for the public. The project area and land conveyances are depicted on the [attached exhibits](#).

Assuming the land swap is approved, the intent is that as part of the City’s Bow Street – Ceres Street waterfront improvements, the compactor enclosure will be rebuilt in this new location, which would be partially on the existing City-owned lot and partially on the corner of the Portsmouth Navigation property. The compactor enclosure will be significantly improved in terms of aesthetics.

In that this land swap is a lot line relocation, this matter was considered by the Planning Board at their May 21, 2009 meeting, where preliminary and final subdivision approval were granted. Planning Board stipulation included the following:

“That the Planning Board recommends that the City Council authorize these land conveyances.”

I would recommend the City Council move to accept the recommendation of the Planning Board and authorize the City Manager to execute the required documents for the conveyance of the property between the City and Portsmouth Navigation Corporation.

4. **Reduction to Prescott Park Dock Seasonal Rental Rates.** Earlier this year the City Council approved a dock policy recommended by the Trustees of Trust Funds for the 2009 boating season. The policy would have allowed up to 10 boat slips at Prescott Park be made available by lottery at \$150.00 per boat foot per season, \$170.00 for non-residents.

As a result of that lack of interest the Trustees determined to reduce the price for a seasonal slip at the Prescott Park docks for the 2009 to \$100.00 per boat foot. For non-residents the fee was reduced from \$170.00 to \$120.00. (The City Council approved 10 slips for seasonal rates.) For 2009, the Trustees would lease the 10 slips on a first come first serve basis.

The Trustees assumed that the City Council will be in agreement with the actions which the Trustees have taken to bring about full utilization of the boat slips. However, the City Council remains the final authority with regard to the boat slips. Therefore, if the City Council desires to change the policy as it is now being applied by the Trustees, the Trustees will follow any policy directive issued by the City Council. (See [attached policy](#).) However, if the City Council is in agreement with the actions of the Trustees then a motion to accept would be appropriate.

I would recommend the City Council move to adopt the Prescott Park Dock Seasonal Rental Rates, as approved by the Trustees of the Trust Fund.

5. **Request to Enter into a Revised License Agreement Re: 68 State Street.** In August of 2007, the City Council approved a license to facilitate construction activities at 68 State Street. The original license, which commenced in December of 2007, authorized the use of five metered spaces and a portion of sidewalk on State Street as well as a portion of the sidewalk on Court Street. In October of 2008, the City Council approved an extension of the license.

Work is sufficiently completed on the State Street side of the building that no further long-term encumbrance of metered spaces or the sidewalk along State Street is required. The jersey barriers have been removed and the five metered spaces returned to City use. In addition, the sidewalk along State Street has temporary repairs sufficient to

maintain public use of the sidewalk; the final brick sidewalk work to be deferred until after the City has completed its sewer work in the area.

The owner and contract request, however, the right to continue to make use of the sidewalk area on Court Street consistent with the original terms of the License Agreement until December 30, 2009. [See the attached plan showing the area previously licensed along Court Street.](#) The contractor continues to use such area for the location of dumpsters and some materials.

In the event that work is not completed within the contractor's anticipated schedule (completion December 2009), I am requesting you give me the authority to extend the license for up to an additional ninety (90) days beyond December 30, 2009 should the need arise and you determine there is good cause for an extension.

I would recommend the City Council move to authorize the City Manager to negotiate and enter into a revised license agreement for purposes of facilitating construction activities at 68 State Street.

6. **Memorandum of Understanding (MOU) and Agreement between City and Art-Speak.** [Attached is a copy of a Memorandum of Understanding \(MOU\) and Agreement between the City and Art-Speak](#) extending the City's relationship with Art-Speak for the period July 1, 2009 through June 30, 2010.

You will recall that on May 4, 2009 Art-Speak gave its annual report on arts and culture in the City. This report addressed the requirements that Art-Speak must satisfy as outlined in the MOU such as:

- 1) Promote appreciation, awareness, participation, and dialogue in the support of arts and culture in the City of Portsmouth;
- 2) Serve in an advisory capacity for all City government departments;
- 3) Provide an annual state-of-the-City cultural report;
- 4) Convene an annual arts and cultural forum;
- 5) Provide business and cultural exchanges; and
- 6) Provide regional and state cultural collaboration opportunities.

As illustrated in the annual report, despite the economic downturn local arts and cultural organizations are finding ways to endure and offer a wide range of cultural experiences citywide. And, as we have seen through the Americans for the Arts Economic Prosperity Studies for Portsmouth, this activity is a key contributor to our local economic vitality. In 2008/09 Art-Speak successfully leveraged the \$20,000.00 in UDAG funds granted to the organization through donations and other grants for operating funds. The FY 09/10 UDAG Budget includes another \$20,000.00 for Art-Speak to continue the work outlined in the annual report.

By supporting the activities of Art-Speak, the City of Portsmouth advocates and leverages the power of the local creative economy and continues to be a model for other communities. The Art-Speak Board of Directors has approved the extension request.

I recommend that the City Council authorize the City Manager to extend the agreement from July 1, 2009 through June 30, 2010.

7. **Proposed Policy Re: Public Gathering in Market Square.** [Attached is a proposed policy](#) regarding the aforementioned subject matter drafted by City Attorney Robert Sullivan with input from various City departments. I would ask that we review and discuss this on Monday evening with a recommendation that it come back at the June 22, 2009 City Council meeting for action.

Therefore, I would recommend the City Council move to authorize the City Manager to bring back the aforementioned proposed policy to the June 22, 2009 City Council meeting for action.

8. **Proposed Repairs to South Meeting House.** As you are aware, in September of 2008, the South Meeting House on Marcy Street became vacant as a result of the Children's Museum's move from that location. Subsequent to the building becoming vacant, a committee of representatives from the Friends of the South End (FOSE) was formed to discuss with myself and City staff the restoration and reuse of the building. Members of the committee included Attorney David Anderson, Guy Marshall and Joe Almedia. The committee met on three (3) occasions with City staff to discuss the improvements that would be needed to the building for complete restoration. The committee and City staff recommended that the following work be completed:

1. The replacement of the roof.
2. The clock tower needs structural work for its long-term viability.
3. The building needs to be completely painted and some clapboards require replacement.
4. The building currently has no insulation and needs insulation installed.
5. The area around the building needs new pavement.
6. The area around the building needs to be landscaped.

I have asked the City staff to work with the committee to formulate an estimate for these repairs. The preliminary estimate is approximately \$200,000.00 for the first five items and

the representatives from Friends of the South End have indicated that \$15,000.00 has been raised which could be utilized for landscaping. However, it is imperative, that before next winter, the aforementioned work be completed in order to ensure the structural integrity of this historically significant building, which was built in 1866. Once the exterior repairs have been made, I would recommend that we seek a tenant that would do the fit-up on the inside of the building (i.e., improvements to heating system, wall repairs and painting, etc.) In order to fund this project, I believe UDAG Funds are an appropriate source.

Therefore, I recommend that the City Council authorize expenditures up to \$200,000.00 from the Urban Development Action Grant Fund for the repairs listed above. If approval is given, we will proceed to put these items out to bid, and any renovations and improvements would have to go before the Historic District Commission. The Council has two options: (1) it could approve this request on Monday evening, or (2) wait until the June 22nd meeting, if there are additional questions that need to be answered.

9. **Request for Approval of PSNH Pole Licenses #63-0475 and #63-0476.** The City Public Works Department has reviewed pole location information provided by PSNH for Petition and Pole Licenses #63-0475 and #63-0476. These requests are to license replacement poles on Hancock Street and Washington Street. Typically, these replacements do not require licenses but PSNH cannot verify any existing licenses and are requesting them now. These poles pose no impact to existing City infrastructure and the Public Works Department recommends approval of these licenses. [Attached are the licenses and photographs of the poles.](#)

I would recommend the City Council approve the request from PSNH for Pole License Agreements #63-0475 and #63-0476, as recommended by the Public Works Department.

10. **Request for Approval of TCG New Jersey AT&T License Agreement.** The City Public Works Department has reviewed the underground conduit system location information provided by TCG New Jersey, Inc., a subsidiary of AT&T for a Petition and Conduit License for underground utility crossing the end of Echo Avenue. This underground conduit system poses no impact to existing City infrastructure and the Public Works Department recommends approval of this license. [Attached is a license and photograph](#) of the end of Echo Avenue where the conduit will be placed.

I would recommend the City Council approve the request from TCG New Jersey, Inc. a subsidiary of AT&T, for a Petition and Conduit License Agreement for underground utility crossing the end of Echo Avenue, as recommended by the Public Works Department.

11. **Request for a License from Jodie Curtis of Re-Enhabit, LLC, for property located at 15 Daniel Street to install a projecting sign.** Attached is a copy of a memorandum

from David Holden, Planning Director, outlining the Planning Board's recommendation regarding a request from Jodie Curtis of Re-Enhabit, LLC, for property located at 15 Daniel Street, to install a projecting sign. In accordance with City Council Policy #2009-4, the Planning Board has reviewed this request and recommends the following action:

- 1) That the request shall be subject to a municipal license and 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 will be done at no cost to the City; and,
- 2) 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 and approve the request of Jodie Curtis of Re-Enhabit, LLC to install a projecting sign at 15 Daniel Street and further authorize the City Manager to execute a License Agreement for this request.

12. **Request for a License from Michael Labrie of Riverhouse Restaurant Group, LLC, for property located at 53 Bow Street to install a projecting sign.** Attached is a copy of a memorandum

from David Holden, Planning Director, outlining the Planning Board's recommendation regarding a request from Michael Labrie of Riverhouse Restaurant Group, LLC for property located at 53 Bow Street, to install a projecting sign. In accordance with City Council Policy #2009-4, the Planning Board has reviewed this request and recommends the following action:

- 1) That the request shall be subject to a municipal license and 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 will be done at no cost to the City; and,
- 2) 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 and approve the request of Michael Labrie of Riverhouse Restaurant to install a projecting sign at 53 Bow Street and further authorize the City Manager to execute a License Agreement for this request.

13. **Request for a License from Joe Hickey of Blue Athletic, Inc. for property located at 67 Bow Street to install a projecting sign.** Attached is a copy of a memorandum from David Holden, Planning Director, outlining the Planning Board's recommendation regarding a request from Joe Hickey of Blue Athletic, Inc. for property located at 67 Bow Street, to install a new projecting sign with a new and slightly smaller one (Denim rack). In accordance with City Council Policy #2009-4, the Planning Board has reviewed this request and recommends the following action:

- 1) That the request shall be subject to a municipal license and 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 will be done at no cost to the City; and,
- 2) 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 and approve the request of Joe Hickey of Blue Athletic, Inc. to install a projecting sign at 67 Bow Street and further authorize the City Manager to execute a License Agreement for this request.

14. **Proposed Half-Day Work Session Re: Review of Proposed Zoning Ordinance.** As you know, the Planning Board has been working tirelessly with City staff and Rick Taintor on the Zoning Ordinance Revision Project based on the goals and policies outlined in the City's 2005 Master Plan. This effort has involved 45 Planning Board work sessions and meetings, several dozen meetings with the other land use boards as well as City committees and commissions, and extensive input from key City staff.

A final draft of the Zoning Ordinance is in the final stages of completion and will soon be distributed to the Planning Board and the City Council in its entirety. Given this, I would like to have Rick Taintor, City staff and Planning Board Chairman John Ricci present the key provisions of the proposed Zoning Ordinance as well as the foremost public policy issues that arise in the new regulations. I believe the best format to do this would be in the form of a half-day retreat on Friday, June 26th from 12:30 p.m. to 4:30 p.m. I would propose to hold this session at the public library with lunch provided.

The intent of this retreat session would be for the Council to be apprised as to how the Planning Board has gone about developing the revised Zoning Ordinance, and to assist the Council in their review and consideration of the proposed Zoning Ordinance.

The Planning Board plans to go forward with their public hearings on the new ordinance during July, August and early September and, following those hearings, it would be the Board's intent to recommend the revised Zoning Ordinance to the City Council for consideration. The Council could then initiate its public hearing process prior to adoption of the new ordinance.

I would recommend the City Council move to establish a half-day work session on Friday, June 26, 2009 from 12:30 p.m. to 4:30 p.m., to review the proposed zoning ordinance.

15. **Economic Revitalization Zone Tax Credit Request Re: High Liner Foods.** The City has received a letter from High Liner Foods, Inc., requesting that the City apply to the New Hampshire Department of Resources and Economic Development for approval of the Borthwick Avenue area as an Economic Revitalization Zone (ERZ). The request is in anticipation of an expansion by Highliner Foods involving new capital equipment and new job creation.

The ER Zone designation is an economic development tool that creates incentive for companies to expand or relocate to an eligible area. Projects in an approved zone must create new jobs and expand the economic base and can range from the creation of new facilities to the rehabilitation of existing structures. State approval of ER Zones qualifies businesses expanding or relocating in these ER zones for tax credits outlined in RSA 162-N:8. Under the provisions of this statute, businesses in an approved ER Zone may be eligible for tax credits to be used against Business Profit Tax and Business Enterprise Tax up to a maximum of \$40,000 annually for a five year period. There is currently \$825,000 available in ERZ tax credits statewide. There is no cost to the local community for designating ER Zones.

To implement the program so that local businesses are able to qualify for the tax credits, the city must identify a revitalization area and apply to the state for approval of the designated area. After state approval from the Division of Business Resources, businesses can apply for tax credits.

The Economic Development Commission reviewed the Economic Revitalization Zone Tax Credit Program at its April 2009 meeting and encouraged the City to review areas that would qualify and benefit local business. Although staff is considering other areas for future ER Zone designation, the request from Highliner Foods to designate the Borthwick Avenue site precipitated this request to make it eligible for tax credits in this fiscal year. [Attached is additional information](#) on the ERZ Tax Credit and a map of the proposed zone.

I recommend that the City Council authorize me to submit an application to the New Hampshire Department of Resources and Economic Development for approval of the Borthwick Avenue area as an Economic Revitalization Zone (ERZ).

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 18, 2009. As you can see on the listing, I have highlighted those dates that will have two events going on at the same time.