

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, JUNE 8, 2009

PORTSMOUTH, NH  
TIME: 7:00PM [or thereafter]

At 6:00PM an Anticipated "Non-Meeting" with Counsel was held regarding Negotiations – RSA 91-A:2, I (b-c).

### **I. CALL TO ORDER**

Mayor Ferrini called the meeting to order at 7:05 p.m.

### **II. ROLL CALL**

Present: Mayor Ferrini, Assistant Mayor Blalock, Councilors Novelline Clayburgh, Dwyer, Smith, Kennedy, Spear, Pantelakos and Hejtmanek

### **III. INVOCATION**

Mayor Ferrini asked everyone to join in a moment of silent prayer.

### **IV. PLEDGE OF ALLEGIANCE**

Councilor Spear led in the Pledge of Allegiance to the Flag.

### **MAYOR'S AWARD**

1. Robin McIntosh (Not on the agenda)

Mayor Ferrini presented a Mayor's Award and gift to Robin McIntosh for her dedication with various projects and years of service to the City of Portsmouth. Ms. McIntosh thanked the Mayor and City Council for this award.

### **PRESENTATION**

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

Mayor Ferrini presented Mayor's Awards and t-shirts to the State Champion Portsmouth High School Girls' Tennis Team. Coach Olsen thanked Mayor Ferrini and City Council for this recognition.

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

**Councilor Smith moved to approve and accept the minutes of the May 11, 2009 and May 18, 2009 City Council meetings. Seconded by Councilor Pantelakos and voted.**

## VI. PUBLIC COMMENT SESSION

Jacquelyn Gravelle, Association of Clericals in Education's, spoke regarding the contract negotiations that have taken place over the last year and said that information should have been provided earlier in the process. She expressed concern relative to the wage freeze for FY10 and the increased costs associated with health insurance, groceries, gas, etc. and its effect on employees. Ms. Gravelle said it is her hope that the City Council remembers the sacrifices made by the unions today in 2014 when the contract expires.

Mayor Ferrini spoke to the recent Service of Remembrance for former Mayor Evelyn Sirrell and thanked all those who helped with its preparation.

## VII. PUBLIC HEARINGS

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

Mayor Ferrini read the legal notice, declared the public hearing open and called for speakers.

Parking Manager Frederick reviewed the ordinance and informed the City Council that the change was requested by the Parking Committee which worked in conjunction with the Recreation Department on this amendment.

Harold Whitehouse, Portsmouth resident and member of the Peirce Island Committee, expressed concern with the insurance requirements. He also recommended amending Item E to reference the vessel shall remain unoccupied for the duration of the permitted time.

After three calls and no further speakers, Mayor Ferrini declared the public hearing closed.

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

Mayor Ferrini read the legal notice, declared the public hearing open and called for speakers.

City Manager Bohenko spoke to the City billing in arrears for property taxes twice a year. 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.

After three calls and no speakers, Mayor Ferrini declared the public hearing closed.

**Councilor Dwyer moved to suspend the rules in order to take up Item XII. A.6. – Memorandum of Understanding (MOU) and Agreement between City and Art-Speak. Seconded by Councilor Smith and voted.**

XII. A.6. Memorandum of Understanding (MOU) and Agreement between City and Art-Speak

City Manager Bohenko advised the City Council that Ellen Fineberg, Chair of Art-Speak is here this evening to address the City Council. Ms. Fineberg spoke to the Memorandum of Understanding and the services provided to the City through Art-Speak. She urged the City Council to support the Memorandum of Understand as presented.

**Councilor Smith moved to authorize the City Manager to extend the agreement from July 1, 2009 through June 30, 2010. Seconded by Councilor Dwyer and voted.**

**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

**Councilor Novelline Clayburgh moved to approve and accept the donations, as listed, to be placed in the Coalition Legal Fund. Seconded by Councilor Kennedy and voted.**

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

**Councilor Novelline Clayburgh moved 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. Seconded by Councilor Smith.**

City Manager Bohenko informed the City Council that 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.

Councilor Spear said that this is a multi-year educational effort to understand the purpose of managing stormwater.

Deputy Public Works Director Allen spoke to the Request for Proposals process to be used and said he expects to have someone on board the end of July and the study should take approximately one year.

**Motion passed.**

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

**Councilor Smith moved 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. Seconded by Councilor Kennedy and voted.**

## **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

**Councilor Smith moved to pass second reading and schedule a third and final reading at the June 22, 2009 City Council meeting, as submitted. Seconded by Councilor Pantelakos.**

Councilor Kennedy asked about the allowed length of a trailer. Parking Manager Frederick said a trailer cannot be larger than 25ft.

**Councilor Smith moved to amend Item E of the ordinance to read as follows: “*The vehicle and/or vessel shall remain unoccupied for the duration of the permitted time.*” Seconded by Councilor Novelline Clayburgh and voted.**

**Main motion passed as amended.**

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

**Assistant Mayor Blalock moved to adopt the Resolution, as presented. Seconded by Councilor Novelline Clayburgh. On a unanimous roll call vote 9-0, motion passed.**

- C. Third and final reading of Ordinance amending Chapter 7, Article III, Section 7.344 – Use of Roller Skates, Coasters and Skateboards

**Councilor Pantelakos moved to pass third and final reading of the proposed ordinance, as submitted. Seconded by Assistant Mayor Blalock.**

**Councilor Hejtmanek moved to reconsider second reading to allow for further amendments to the ordinance. Seconded by Councilor Novelline Clayburgh.**

Councilor Novelline Clayburgh said she is uncomfortable with the ordinance and would like to add: “use is prohibited on the following streets:”

Market Street Extension, Islington Street, Middle Street, Middle Road, Greenland Road, Peverly Hill Road, Elwyn Road, Ocean Road, Route 1, Lafayette Road, Maplewood Avenue, Woodbury Avenue, Bartlett Street, South Street, Miller Avenue, Summer Street and Sagamore Avenue.

Councilor Pantelakos spoke opposed to addressing this amendment after the public hearing has been held. Councilor Spear said he concurs with Councilor Pantelakos and said that signage would create issues as well.

On a roll call vote 3-6, motion to reconsider second reading to allow for further amendments to the ordinance ***failed*** to pass. Councilors Novelline Clayburgh, Dwyer and Hejtmanek voted in favor. Assistant Mayor Blalock, Councilors Smith, Kennedy, Spear, Pantelakos and Mayor Ferrini voted opposed.

On a roll call 6-3, voted to pass third and final reading of the proposed ordinance, as submitted. Assistant Mayor Blalock, Councilors Smith, Kennedy, Spear, Pantelakos and Mayor Ferrini voted in favor. Councilors Novelline Clayburgh, Dwyer and Hejtmanek voted opposed.

#### **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 14<sup>th</sup> 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***)

Councilor Pantelakos requested to remove Item X. A. – Letter from Laurie Mantegari, Greater Portsmouth Chamber of Commerce, requesting permission to hold the 14<sup>th</sup> Annual Harbor Trail Road Race on Saturday, July 11, 2009; further request that vehicles be prohibited from parking on Parrott and Junkins Avenues after business hours Friday, July 10, 2009 from the Consent Agenda.

- A. Letter from Laurie Mantegari, Greater Portsmouth Chamber of Commerce, requesting permission to hold the 14<sup>th</sup> 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

**Assistant Mayor Blalock moved to refer to the City Manager with power. Seconded by Councilor Smith.**

City Manager Bohenko informed the City Council that Doug Bates, President of the Greater Portsmouth Chamber of Commerce is here this evening to address the City Council regarding the request. The City Council agreed to allow Mr. Bates to address the Council.

Mr. Bates said that the Chamber would request the City Council to prohibit vehicles from parking on Parrott and Junkins Avenues after business hours on Friday, July 10, 2009. City Manager Bohenko said the area would be reviewed.

**Motion passed.**

- 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***)

Councilor Smith moved to adopt the Consent Agenda as presented. Seconded by Councilor Kennedy and voted.

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

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

City Manager Bohenko informed the City Council that the Greater Portsmouth Chamber of Commerce would like to install lockable enclosed poster swing cases on each of the six of the eight lower exterior panels. In addition, a digital picture frame which would automatically stream photos of important visitor designations. City Manager Bohenko recommended that the City Council refer this request to him for report back.

**Councilor Pantelakos moved to refer to the City Manager for report back to the City Council. Seconded by Councilor Novelline Clayburgh.**

Mr. Bates addressed the City Council to discuss the issue with various items being added to the kiosk by individuals and increases the cost to maintain the building. If they are allowed to install lockable poster swing cases they would be able to control what is posted on the building and keep the building looking neat and reduce the cost of maintenance.

Councilor Spear expressed concern with the digital frame being used in the evening. He said he would like to see the City create a message board that would allow individuals to post various items of interest.

Councilor Dwyer said she feels this needs to be brought to the Planning Board for review.

City Manager Bohenko informed the Council that this matter would be brought to the Planning Board for an advisory review.

**Motion passed.**

## XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

### A. CITY MANAGER

#### 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

**Councilor Pantelakos moved to adopt the Supervisory Management Alliance's Tentative Agreement to expire on June 30, 2014. Seconded by Councilor Kennedy.**

Councilor Novelline Clayburgh thanked everyone involved in the negotiations during these difficult economic times.

**Motion passed.**

- Portsmouth Association of Clericals in Education's Tentative Agreement

**Councilor Pantelakos moved to adopt the Portsmouth Association of Clericals in Education's Tentative Agreement to expire on June 30, 2014. Seconded by Councilor Kennedy.**

Councilor Novelline Clayburgh said she would like to thank everyone for their hard work with all of these contracts.

Councilor Spear said he concurs with Councilor Novelline Clayburgh. He said he is pleased with the contracts and believes that these contracts will put the School Department in a good place in the future.

Assistant Mayor Blalock said that the contract negotiations were difficult and he would like the City Council to remember the concessions made and how cooperative the unions were.

Councilor Kennedy said that the unions not taking cost of living adjustments is a long term benefit for the future.

**Motion passed.**

- Custodial Supervisors' Tentative Agreement

**Councilor Pantelakos moved to adopt the Custodial Supervisors' Tentative Agreement to expire on June 30, 2014. Seconded by Councilor Kennedy and voted.**

- Portsmouth Paraprofessional Association's Tentative Agreement

**Councilor Pantelakos moved adopt the Portsmouth Paraprofessional Association's Tentative Agreement to expire on June 30, 2014. Seconded by Assistant Mayor Blalock and voted.**

- Association of Portsmouth School Administrator's Tentative Agreement

**Councilor Pantelakos moved to adopt the Association of Portsmouth School Administrator's Tentative Agreement to expire on June 30, 2014. Seconded by Councilor Novelline Clayburgh.**

Mayor Ferrini passed the gavel to Assistant Mayor Blalock.

Mayor Ferrini said these contracts show leadership by the employees and he appreciates the concessions made.

Assistant Mayor Blalock returned the gavel to Mayor Ferrini.

### **Motion passed.**

City Manager Bohenko informed the City Council 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.

## 2. Shoreland Exemption for Poco Deck Relocation

City Manager Bohenko said 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.

Environmental Planner Britz discussed the relocation of the Poco Diablo outdoor restaurant deck 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.



He said that 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.

City Manager Bohenko said 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.

**Councilor Pantelakos moved to 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. Seconded by Councilor Smith and voted.**

3. Exchange of Property Interests Between the City and Portsmouth Navigation Corporation

Deputy City Manager Hayden reported that the City is trying to improve public access and the appearance of the area. She spoke to the public improvements to the City's parcel will include resurfacing, drainage improvements, seating, landscaping, pedestrian scale lighting and additional aesthetic improvements and site amenities.

Deputy City Manager Hayden reported that 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.

**Councilor Smith moved 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. Seconded by Councilor Kennedy.**

Councilor Smith inquired as to the recycling area. City Manager Bohenko said we are working with this matter and plan to come forward with a plan in the future for the City Council to consider.

**Motion passed.**

4. Reduction to Prescott Park Dock Seasonal Rental Rates

City Manager Bohenko reported that the Trustees of the Trust Fund have recommended an adjustment to the fees.

**Councilor Smith moved to adopt the Prescott Park Dock Seasonal Rental Rates, as approved by the Trustees of the Trust Fund. Seconded by Councilor Dwyer.**

City Manager Bohenko informed the City Council that this would be an annual license and if there are more than 10 applicants a lottery would be held for the spaces. He reported that this is a pilot program that the Trustees of the Trust Fund wanted to try.

**Motion passed.**

5. Request to Enter into a Revised License Agreement Re: 68 State Street

Mayor Ferrini passed the gavel to Assistant Mayor Blalock and advised the City Council that he would be abstaining from discussion and voting on this matter.

City Attorney Sullivan said 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.

He advised the City Council that 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.

City Attorney Sullivan advised the City Council that 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. The contractor continues to use such area for the location of dumpsters and some materials.

City Attorney Sullivan said in the event that work is not completed within the contractor's anticipated schedule (completion December 2009), authority should be given to City Manager Bohenko 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.

**Councilor Pantelakos moved to authorize the City Manager to negotiate and enter into a revised license agreement for purposes of facilitating construction activities at 68 State Street. Seconded by Councilor Novelline Clayburgh.**

Councilor Kennedy said she appreciates the moving of the barricades but is concerned with parking. City Attorney Sullivan said that public parking will not be available until the end of this year or the beginning of next year. Councilor Kennedy said the issue of parking needs to be addressed.

**Motion passed. Mayor Ferrini abstained from voting.**

Assistant Mayor Blalock returned the gavel to Mayor Ferrini.

7. Proposed Policy Re: Public Gathering in Market Square

City Manager Bohenko informed the City Council that he is not looking for a vote this evening on the proposed policy. He requested that the City Council review the policy and a vote would take place at the June 22, 2009 City Council meeting. He advised the City Council that a policy allows the City Council to make changes in the future.

City Attorney Sullivan reported that this policy needs to balance first amendment rights for people. He requested that the City Council contact him with any necessary changes.

Councilor Pantelakos said we are balancing public safety with public rights.

**The City Council agreed to have the City Manager bring back the aforementioned proposed policy to the June 22, 2009 City Council meeting for action.**

8. Proposed Repairs to South Meeting House

City Manager Bohenko said 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.

City Manager Bohenko reported that the City staff has worked 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.

He said once the exterior repairs have been made we seek a tenant that would do the fix-up on the inside of the building (i.e., improvements to heating system, wall repairs and painting, etc.) In order to fund this project, City Manager Bohenko said UDAG Funds are an appropriate source.

**Councilor Smith moved to authorize expenditures up to \$200,000.00 from the Urban Development Action Grant Fund for the repairs listed:**

**Repairs recommended by committee and City Staff:**

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

**Seconded by Councilor Kennedy.**

Councilor Dwyer said she would like the neighborhood to have right of first refusal for the use of the building as outlined in the Building Re-use Committee. City Manager Bohenko said he would have that conversation with the Friends of the South End.

Councilor Smith said he feels the use of UDAG funds is correct.

Councilor Kennedy said she wants someone that is able to upkeep the building and that parking be provided for the people.

**Motion passed.**

9. Request for Approval of PSNH Pole Licenses #63-0475 and #63-0476

**Councilor Smith moved to approve the request from PSNH for Pole License Agreements #63-0475 and #63-0476, as recommended by the Public Works Department. Seconded by Councilor Novelline Clayburgh and voted.**

10. Request for Approval of TCG New Jersey AT&T License Agreement

**Councilor Smith moved to 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. Seconded by Councilor Kennedy and voted.**

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

Councilor Smith moved 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. Seconded by Councilor Kennedy and voted.

**Planning Board Recommendations:**

- *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,*
- *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*

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

Councilor Smith moved 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. Seconded by Councilor Pantelakos and voted.

**Planning Board Recommendations:**

- *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,*
- *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*

13. Request for a License from Joe Hickey of Blue Athletic, Inc. for property located at 67 Bow Street to install a projecting sign

**Councilor Smith moved 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. Seconded by Councilor Kennedy and voted.**

**Planning Board Recommendations:**

- ***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,***
- ***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***

14. Proposed Half-Day Work Session Re: Review of Proposed Zoning Ordinance

City Manager Bohenko advised the City Council that he would like to schedule a half-day work session regarding a review of the Proposed Zoning Ordinance. He suggested conducting the work session at the Library in the Levenson Room.

**Councilor Pantelakos moved 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. Seconded by Councilor Dwyer.**

Councilor Kennedy said she would not be able to attend the work session on June 26<sup>th</sup> because of the end of school year activities and asked to reschedule to another date. Councilor Smith also indicated that he would not be able to attend on June 26<sup>th</sup>.

City Manager Bohenko suggested that Mayor Ferrini schedule a new date for the work session that would work for the entire City Council.

**Councilor Pantelakos withdrew her motion and Councilor Dwyer her second.**

**Councilor Smith moved to establish a half-day work session with a date to be determined by Mayor Ferrini to review the proposed zoning ordinance. Seconded by Councilor Novelline Clayburgh and voted.**

15. Economic Revitalization Zone Tax Credit Request Re: High Liner Foods

City Manager Bohenko said that High Liner Foods will stay in the City and are 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 \$40,000.00 annually for a five year period. There is currently \$825,000.00 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.

**Councilor Smith moved to authorize the City Manager 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). Seconded by Councilor Kennedy.**

Councilor Dwyer requested that this matter be referred to the Planning Board for informational purposes.

**Motion passed.**

**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

The City Council considered the above reference appointments to be voted on at the June 22, 2009 meeting.

2. Appointments to be Voted:
  - Maryann Blanchard – Appointment as Regular member to Conservation Commission

**Councilor Smith moved to appoint Maryann Blanchard as a regular member to the Conservation Commission until April 1, 2012. Maryann will be filling the expired term of Skye Maher who did not seek reappointment. Seconded by Councilor Pantelakos and voted.**

3. City Council Policy #2009-01 Re: Board & Commission Quarterly Reports

Mayor Ferrini announced that the presentation of quarterly reports would take place at the September 14, 2009 City Council meeting.

4. \*Status Update on Portsmouth Middle School

Mayor Ferrini informed the Council that we continue to monitor the State of New Hampshire budget process. The State is anticipated to pass their budget on June 24, 2009.

**C. COUNCILOR SMITH**

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

**Councilor Novelline Clayburgh moved to approve and accept the action sheet and minutes of the May 14, 2009 Traffic & Safety Committee meeting. Seconded by Councilor Pantelakos.**

Councilor Smith reported that the Music Hall came to Traffic & Safety Committee and is proposing streetscape renovations. He said the issue will be reviewed further by the Committee and was tabled until June 11, 2009.



Councilor Novelline Clayburgh inquired about the installation of a traffic light in front of New Franklin School. Councilor Smith advised the City Council that the City does not control that section of road, it must meet certain criteria and the State would need to approve for the installation of a traffic light.

**Motion passed. Councilor Kennedy voted opposed.**

2. Parking Committee Action Sheet and Minutes of the May 14, 2009 meeting

**Assistant Mayor Blalock moved to approve and accept the action sheet and minutes of the May 14, 2009 Parking Committee meeting. Seconded by Councilor Novelline Clayburgh.**

Councilor Smith advised the City Council that the High Hanover Parking Facility matter will require an ordinance amendment. He said that the ordinance would reduce the time for towing or immobilization from 30 days to 7 days for transient vehicles.

**Motion passed. Councilor Kennedy voted opposed.**

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

City Manager Bohenko announced that the City Council will adopt the budget at the June 22, 2009 City Council meeting.

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

At 9:00 p.m., Councilor Smith moved to adjourn. Seconded by Councilor Pantelakos and voted.



Kelli L. Barnaby, CMC/CNHMC  
City Clerk