

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, MAY 3, 2010 TIME: 7:00PM

## AGENDA

- 6:00PM – ANTICIPATED “NON-MEETING” WITH COUNSEL REGARDING 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

### PROCLAMATION

1. National Police Week and Peace Officers’ Memorial Day

### PRESENTATION

1. Annual Report Art-Speak

- V. ACCEPTANCE OF MINUTES – APRIL 14, 2010 AND APRIL 19, 2010

- VI. PUBLIC COMMENT SESSION

- VII. APPROVAL OF GRANTS/DONATIONS

- A. New Hampshire Public Health Network Grant - \$70,000.00 (***Sample motion – move to authorize the City Manager to apply for, accept and expend a two-year grant from the NH Department of Health and Human Services for the purpose of funding the ongoing public health and emergency planning work for the Greater Portsmouth Public Health Network retroactively effective March 31, 2010***)

- VIII. CONSENT AGENDA

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

- A. Acceptance of Donation from Norman M. & Elizabeth T. Henderson to Portsmouth Fire Department for the CO2 Fund - \$200.00 (***Anticipated Action – move to accept and approve the donation to the Fire Department, as presented***)

- B. Acceptance of Donations to Art-Speak Overnight Art Sponsorship - \$3,292.50
- BayRing Communications - \$2,500.00
  - Hilton Garden Inn (Parade Hotel, LLC) - \$500.00
  - Conway Office Products (Jeffrey Feenstra) - \$100.00
  - Ellen Fineberg - \$100.00
  - First giving - \$92.50

***(Anticipated Action – move to accept and approve the donations to Art-Speak Overnight Art Sponsorship, as presented)***

## **IX. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Letter from Attorney Thomas Watson requesting the issuance of a Revocable License to David J. and Vasilia Tooley for property located at 166 Newcastle Avenue to allow for the continued placement of encroachments within the City rights-of-way ***(Sample motion – move to authorize the issuance of a Revocable License to David J. and Vasilia Tooley for property located at 166 Newcastle Avenue)***
- B. Letter from Jennifer Mast requesting permission to donate a granite bench to the City in honor of her father Tom Mast for installation along the water of Peirce Island facing the North-West views of the Portsmouth Naval Shipyard ***(Sample motion – move to refer to the City Manager with power)***

## **X. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

### **A. CITY MANAGER**

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

1. Report Back from Planning Board Re: Request to Place the Relocated Seabrook Station Siren Pole at the Former DPW Facility within the Conservation Easement
2. Report Back from Planning Board Re: Request to Rezone Lots on Sagamore Grove from Waterfront Business (WB) to Mixed Residential Business (MRB) or Single Residence B (SRB)
3. Appointments to Rockingham Planning Commission
4. Acceptance of Brick Sidewalks Policy
5. Request for a License from Jay McSharry, 106 Grill LLC, owner of 106 Kitchen & Bar for property located at 106 Penhallow Street to install a projecting sign
6. Request for a License from Joseph Hickey, owner of Denimrack for property located at 19 Congress Street to install a projecting sign
7. Request for a License from Paul Keegan, owner of 1 World Trading Co. for property located at 76 Congress Street to install a projecting sign
8. Proposed Sale of Pedestrian Bridge

### **Informational Items**

1. Events Listing
2. Upcoming Budget Meetings
3. The Downtown Portsmouth Zero Waste Project
4. Reschedule: Maine-NH Connections Study Public Meeting
5. Economic Development Commission Agenda and Minutes
6. Portsmouth Sustainability Fair

### **B. MAYOR FERRINI**

1. Appointments to be Considered:
  - Gary Nadeau – Appointment to the Building Code of Appeals
  - Sandra Dika – Reappointment to the Historic District Commission
  - Charles Bradley – Reappointment to the Portsmouth Housing Authority
  - Carlos Castro – Reappointment to the Portsmouth Housing Authority
2. \*Reports

### **C. COUNCILOR SMITH**

1. Parking Committee Action Sheet and Minutes of the April 8, 2010 meeting (***Sample motion – move to accept and approve the action sheet and minutes of the April 8, 2010 Parking Committee meeting***)

## **XI. MISCELLANEOUS/UNFINISHED BUSINESS**

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

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

(\*Indicates verbal report)

### **INFORMATIONAL ITEMS**

1. Notification that the Planning Board Minutes of the March 18, 2010 meeting are available on the City's website for your review
2. Notification that the Zoning Board of Adjustment Minutes of the March 16, 2010 are available on the City's website for your review

**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:** April 30, 2010  
**To:** Honorable Mayor Thomas G. Ferrini and City Council Members  
**From:** John P. Bohenko, City Manager  
**Re:** City Manager's Comments on May 3, 2010 City Council Agenda

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**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.

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***Presentation:***

1. **Annual Report Art-Speak.** In accordance with Art-Speak's Memorandum of Understanding, on Monday evening, Jane James, Chair of Art-Speak, will present the annual Art-Speak report to the City Council.

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

1. **New Hampshire Public Health Network Grant.** In 2005, the City began to receive grant funding from the NH Department of Health and Human Services (DHHS) to develop the Greater Portsmouth Public Health Network (GPPHN). The network was formed to improve emergency response capability and planning for large-scale emergencies and pandemics, natural disasters, and chemical/biological emergencies.

These funds enable the City to work with its regional partner towns of Greenland, Rye, Newington, North Hampton, and New Castle on various emergency response planning activities including drafting emergency response plans/annexes, coordinating emergency planning meetings with the Portsmouth Area Emergency Planning Team, developing and recruiting medical volunteers for the Greater Portsmouth Medical Reserve Corps Unit, emergency planning outreach to special needs communities, and administering various emergency response grants.

Currently, the program is funded through June 30, 2010. The City now has the opportunity to apply for a two-year Public Health Network Grant. This grant would provide \$70,000 in funding for July 1, 2010 through June 30, 2011. Budget estimates have been developed for the second year of the grant term and will be finalized near the start of the grant term's second year. No local match is required.

*I would recommend that the City Council move to authorize the City Manager to apply for, accept and expend a two-year grant from the NH Department of Health and Human Services for the purpose of funding the ongoing public health and emergency planning work for the Greater Portsmouth Public Health Network retroactively effective March 31, 2010. Action on this matter should take place under Section VII of the Agenda.*

### **Consent Agenda:**

1. **Acceptance of Donation for Fire Department – CO2 Fund.** The Fire Department has received a donation in the amount of \$200.00 from Norman M. and Elizabeth T. Henderson for the CO2 Fund.

*I would recommend the City Council move to accept and approve the donation to the Fire Department, as presented. Action on this matter should take place under Section VIII of the Agenda.*

2. **Acceptance of Donations for Art-Speak for Overnight Art.** Art-Speak requests that the following funds totaling \$3,292.50 be accepted by the City Council on behalf of Art-Speak. These funds are for Art-Speak's Overnight Art sponsorship.

BayRing Communications	\$2,500.00
Hilton Garden Inn (Parade Hotel, LLC)	500.00
Conway Office Products (Jeffrey Feenstra)	100.00
Ellen Fineberg	100.00
First Giving	92.50

*I would recommend the City Council move to accept and approve the donations to Art-Speak for Overnight Art, as presented. Action on this matter should take place under Section VIII of the Agenda.*

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

1. **Report Back from Planning Board Re: Request to Place the Relocated Seabrook Station Siren Pole at the Former DPW Facility within the Conservation Easement.** On March 15, 2010, the Council voted to refer the [attached letter](#) from John Chagnon of Ambit Engineering to the Planning Board for a report back. The letter requested permission to place the relocated Seabrook Station siren pole at the former DPW facility within the conservation easement on Chevrolet Avenue. [Attached for your information is a memo](#) from Planning Director Rick Taintor with further details regarding

this matter. At their meeting on April 29, 2010, the Planning Board considered this matter and voted to recommend that the City Council approve a change to the conditions of the conservation easement to permit the construction of a siren pole in the southwesterly portion of the conservation easement.

*I would recommend the City Council move to accept the recommendation of the Planning Board to change the conditions of the Chevrolet Avenue conservation easement to permit the construction of a siren pole in the southwesterly portion of the easement.*

2. **Report Back from Planning Board Re: Request to Rezone Lots on Sagamore Grove from Waterfront Business (WB) to Mixed Residential Business (MRB) or Single Residence B (SRB).** On February 1, 2010 the Council voted to refer the [attached letter](#) from Peter G. Weeks of PGW Real Estate Consulting to the Planning Board for a report back as well as an accompanying [letter \(also attached\)](#) from the property owners of 2 Sagamore Grove (Lucian Szmyd), 4 Sagamore Grove (Craig Sieve) and 6 Sagamore Grove (William L. Pingree). Mr. Weeks' letter requested that six lots on Sagamore Grove (Map 201, Lots 3, 4, 5, 6, 7 and 8), which are currently zoned Waterfront Business, be rezoned to Mixed Residential Business or Single Residence B. [Attached for your information is a memo](#) from Planning Director Rick Taintor with further details regarding this matter.

On February 18, 2010 the Planning Board considered this matter and voted to schedule a public hearing, which took place on April 29, 2010. At their meeting on April 29<sup>th</sup> the Planning Board voted to recommend that the City Council rezone from Waterfront Business (WB) to Single Residence B (SRB) Map 201, Lots, 3, 4, 5, 6, 7 and 8 as depicted on the [attached proposed zoning map](#).

*I would recommend the City Council move to accept the recommendation of the Planning Board to rezone the following parcels from Waterfront Business (WB) to Single Residence B (SRB): Map 201, Lots 3, 4, 5, 6, 7 and 8 as depicted on the attached proposed zoning map, and amend the Zoning Map accordingly. Further, I would request that the City Council establish a first reading for May 17, 2010 to make these amendments to the Zoning Ordinance and map.*

3. **Appointments to Rockingham Planning Commission.** The City of Portsmouth, based on its population, is entitled to four representatives to the Rockingham Planning Commission, and the City may also appoint alternate representatives. Several of the City's appointments to the Commission are currently vacant, and it would be beneficial to the City to have full representation.

New Hampshire State law sets forth a two-step process for designating municipal representatives to a regional planning commission:

Representatives to a regional planning commission shall be nominated by the Planning Board of each municipality from the residents thereof and shall be appointed by the municipal officers of each municipality. (RSA 36:46)

At its meeting on April 15, 2010, the Planning Board voted to nominate the following individuals to be the City's representatives and alternate representatives to the Rockingham Planning Commission:

Representatives:

John Ricci, Planning Board Chair  
Esther Kennedy, City Council  
Anthony Blenkinsop, Planning Board  
David Moore, Community Development Director

Alternate Representatives:

Steve Parkinson, Director of Public Works  
Dave Allen, Deputy Director of Public Works  
Cindy Hayden, Deputy City Manager  
Rick Taintor, Planning Director

*I would recommend the City Council move to accept the Planning Board's recommendation to nominate the aforementioned individuals to be the City's representatives and alternate representatives to the Rockingham Planning Commission.*

4. **Acceptance of Brick Sidewalks Policy.** As a result of the April 19<sup>th</sup> City Council meeting, I am bringing back for acceptance the [attached proposed brick sidewalks policy](#) reflecting the proposed changes.

Over the course of the past six to eight years, sidewalks located within the Historic District have been constructed with brick when sidewalk improvements are carried out. A map depicting the boundaries of the Historic District is [attached](#). As you know, with the recent passage of the revised Zoning Ordinance, the Historic District was expanded down Islington Street to Jewell Court/Bartlett Street; down Lafayette Road to South Street; and on Hanover Street between Bridge Street and Vaughan Mall. Staff recommends that sidewalks within these new Historic District areas should also be brick with the exception of Islington Street, as well as New Castle Avenue east of Marcy Street.

One issue that arises is when parcels within the Historic District front on a side street, the majority of which is not within the District (for example along Middle Street). In these cases, the approach has been to be consistent with the sidewalk material used along the majority of the side street. The second issue that arises has to do with sidewalks located outside the Historic District that have historically been brick. Past practice with regard to these sidewalks has been determined through a separate vote of the City Council. When upgrades are made to other sidewalks in the City, concrete is used with black asphalt being replaced with concrete.

*I would recommend the City Council move to accept the Brick Sidewalks Policy, as presented.*

5. **Request for a License from Jay McSharry, 106 Grill LLC, owner of 106 Kitchen & Bar for property located at 106 Penhallow Street to install a projecting sign.** Attached is a copy of a memorandum from Rick Taintor, Planning Director, outlining the Planning Board's recommendation regarding a request from Jay McSharry, 106 Grill LLC, owner of 106 Kitchen & Bar for property located at 106 Penhallow Street, to install a projecting sign (see attached photographs).

This request was received by the Planning Department on March 19, 2010, and reviewed by the Planning Board on April 15, 2010. The Board voted to recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the projecting sign, for any reason, will be done at no cost to the City; and
3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be 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 Jay McSharry, 106 Grill LLC, owner of 106 Kitchen & Bar, to install a projecting sign at 106 Penhallow Street and further authorize the City Manager to execute a License Agreement for this request.*

6. **Request for a License from Joseph Hickey, owner of Denimrack for property located at 19 Congress Street to install a projecting sign.** Attached is a copy of a memorandum from Rick Taintor, Planning Director, outlining the Planning Board's recommendation regarding a request from Joseph Hickey, owner of Denimrack for property located at 19 Congress Street, to install a projecting sign (see attached photographs).

This request was received by the Planning Department on April 2, 2010, and reviewed by the Planning Board on April 15, 2010. The Board voted to recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the projecting sign, for any reason, will be done at no cost to the City; and
3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be 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 Joseph Hickey, owner of Denimrack, to install a projecting sign at 19 Congress Street and further authorize the City Manager to execute a License Agreement for this request.*

7. **Request for a License from Paul Keegan, owner of 1 World Trading Co. for property located at 76 Congress Street to install a projecting sign.** Attached is a copy of a memorandum from Rick Taintor, Planning Director, outlining the Planning Board's recommendation regarding a request from Paul Keegan, owner of 1 World Trading Co. for property located at 76 Congress Street, to install a projecting sign (see attached photographs).

This request was received by the Planning Department on March 16, 2010, and reviewed by the Planning Board on April 15, 2010. The Board voted to recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the projecting sign, for any reason, will be done at no cost to the City; and
3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be 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 Paul Keegan, owner of 1 World Trading Co., to install a projecting sign at 76 Congress Street and further authorize the City Manager to execute a License Agreement for this request.*

8. **Proposed Sale of Pedestrian Bridge.** As you are aware, over the past year, the City has been in the process of reconstructing the bridge on Route 33 adjacent to the cemetery and old stump dump. The City has received 90% federal and state funding on this project. As part of the design of this new bridge, it includes a pedestrian sidewalk and walkway traversing the bridge. The existing bridge did not have a walkway for pedestrians and approximately 20 years ago a separate pedestrian bridge was built adjacent to the existing bridge. Once the new bridge is built, there will not be a need for the pedestrian bridge. The contractor intends to remove this steel structure by the end of May. In discussing this matter with the Public Works Director, we have determined that there is no other location in the City that could utilize this bridge (see attached memo and photographs from Steve Parkinson). Attached is a letter from Keith Hickey, Town Manager of Merrimack, New Hampshire, who has expressed interest in purchasing this bridge for \$10,000.00 and would be responsible for moving the bridge to a new location.

I would recommend that the City Council accept the offer from Merrimack, New Hampshire to purchase the bridge for \$10,000.00 with the requirement that they disassemble and move the bridge to Merrimack at their own expense.

*I would recommend the City Council move to authorize the City Manager to dispose of the pedestrian bridge located on Route 33 in the amount of \$10,000.00 to the Town of Merrimack, New Hampshire.*

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

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on April 19, 2010. In addition, this now can be found on the City's website.
2. **Upcoming Budget Meetings.** Just a reminder that the City Council will be reconvening their FY11 Budget Public Hearing on Monday, May 10, 2010 at 7:00 p.m., in the Portsmouth High School Auditorium. In addition, the City Council will also be holding the Final FY11 Budget Review on Tuesday, May 11, 2010 at 6:30 p.m., in the Eileen Dondero Foley Council Chambers.
3. **The Downtown Portsmouth Zero Waste Project.** [Attached is a copy of a letter](#) from Tom Rooney, Chairman, on behalf of the Portsmouth Blue Ribbon Committee on Sustainable Practices, regarding the Downtown Portsmouth Zero Waste Project.
4. **Reschedule: Maine-NH Connections Study Public Meeting.** For your information, [attached is an e-mail and notice](#) from Carol Morris, regarding the Maine-NH Connections Study Public Meeting. The meeting has been rescheduled to Thursday, May 6, 2010 with an open house from 5:00 p.m. to 6:00 p.m. and the public meeting from 6:00 p.m. to 8:00 p.m., in City Council Chambers.
5. **Economic Development Commission Agenda and Minutes.** [Attached](#) for your information are copies of the Economic Development Commission Agenda for May 7, 2010 and the meeting minutes for April 9, 2010.
6. **Portsmouth Sustainability Fair.** For your information, [attached is the Fair Poster](#) for the Third Annual Portsmouth Sustainability Fair on Saturday, May 8, 2010 from 10:00 a.m. to 3:00 p.m., at the Portsmouth Middle School.