

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, JULY 19, 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
  
- V. ACCEPTANCE OF MINUTES – JUNE 21, 2010
  
- VI. PUBLIC COMMENT SESSION
  
- VII. PUBLIC HEARING
  - A. PURSUANT TO RSA 482-A:15 II ON THE DESIGNATION OF PRIME WETLANDS IN ACCORDANCE WITH THE REPORT PREPARED FOR THE CONSERVATION COMMISSION BY WEST ENVIRONMENTAL IN FEBRUARY 2007 (*Action on this matter should take place under the City Manager’s name*)
  
- VIII. APPROVAL OF GRANTS/DONATIONS
  - A. Acceptance of Conservation License Plate Grant (*Sample motion – move to authorize the City Manager to accept and expend a \$10,000.00 grant from the State of New Hampshire Division of Historical Resources Conservation License Plate Grant Program for the Morton-Benedict House Roof Project*)
  
  - B. Acceptance of Donations to the Coalition Legal Fund
    - Town of Carroll - \$1,000.00
    - Town of Moultonborough - \$5,000.00
    - Town of Tuftonboro - \$5,000.00*(Sample motion – move to approve and accept the donations, as listed, to be placed in the Coalition Legal Fund)*
  
- IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

*There are no items under this Section of the Agenda*

## X. CONSENT AGENDA

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

- A. Letter from James Heinz and Rochelle Jones requesting permission to hold a softball game fundraiser for firefighter Sarah Fox on Sunday, August 22, 2010 at 2:00 p.m. at Alumni Field (***Anticipated action – move to refer to the City Manager with power***)

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

- A. Letter from Cindi Blanchette, Portsmouth City Soccer Club, requesting permission to hang banners at Leary Field during soccer season from mid August through November (*Same conditions as last year*) (***Sample motion – move to refer to the City Manager with power***)
- B. Letter from Richard Adams requesting that the City Council reconsider its action regarding the WW I monuments
- C. Petition requesting to open the back gate on Sherburne Road for a trial period during construction of the bridge over interstate 95 (***Sample motion – move to refer to the Traffic & Safety Committee for report back***)
- D. Letter from Thans Lapanne requesting to change the name of the portion of Sherburne Road on the Trade Port (***Sample motion – move to refer to the Planning Board for report back***)
- E. Letter from Jon and Gloria Wennberg requesting permission to install a bench in Market Square in memory of their daughter Heather (***Sample motion – move to refer to the City Manager with power***)

## XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

### **A. CITY MANAGER**

#### **City Manager's Items Which Require Action Under Other Sections of the Agenda**

- 1. Public Hearing
  - 1.1 Public Hearing Re: Proposed Prime Wetlands Designation (***Action on this matter will take place under the City Manager's name***)

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

- 1. Prime Wetlands Designation
- 2. Request for License Agreement Re: 51 Islington Street, LLC
- 3. Request for a License from Jeff Casler, owner of Second Time Around for property located at 19 Congress Street to install a projecting sign

4. Approval of Downtown Portsmouth Zero Waste Project
5. Report Back Re: Red Ginger, LLC, 261 South Street
6. Request to Establish a Work Session with Recreation Board Re: Recreation Needs Study
7. Representatives to the Rockingham Metropolitan Planning Organization (MPO) Technical Advisory (TAC)

**Informational Items**

1. Events Listing
2. Notice of Public Meeting Re: Middle School Building Project Update

**B. MAYOR FERRINI**

1. Appointment to be Voted:
  - Elissa Hill Stone – Appointment as an Alternate to the Conservation Commission
2. Resignation – Susanne Delaney – Economic Development Commission
3. Report Back from School Board Re: Final Budget Adjustments
4. Letter from First Lady Michelle Obama Re: Preserve America Community Designation
5. \*Reports

**C. ASSISTANT MAYOR NOVELLINE CLAYBURGH**

1. \*Parking Rates

**D. COUNCILOR SMITH**

1. Parking Committee Action Sheet and Minutes of the July 8, 2010 meeting
2. \*Middle School Parking

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

**XIV. 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 May 20, 2010 meeting is 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:** July 16, 2010  
**To:** Honorable Mayor Thomas G. Ferrini and City Council Members  
**From:** John P. Bohenko, City Manager  
**Re:** City Manager's Comments on July 19, 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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***Acceptance of Grants/Donations:***

1. **Acceptance of Conservation License Plate Grant.** The Portsmouth Historical Society has been awarded a \$10,000 grant through the New Hampshire Division of Historical Resources Conservation License Plate Grant Program. The grant is to be used for the Morton-Benedict House Roof Project. This project (similar to last year's Academy roof replacement) is an preventative step in a larger preservation plan for the former Portsmouth Public Library and the project will be managed by the Portsmouth Historical Society. The State of New Hampshire requires the City of Portsmouth be the fiscal agent for these funds.

As you know, the Portsmouth Historical Society is working on the renovation and improvement of the Discover Portsmouth Center and this project is the latest in a series of improvements planned for the building. This grant will be combined with other grant resources and capital fundraising to complete the \$40,000 roof project.

*I would recommend that the City Council move to authorize the City Manager to accept and expend a \$10,000 grant from the State of New Hampshire Division of Historical Resources Conservation License Plate Grant Program for the Morton-Benedict House Roof Project. Action on this matter should take place under Section VIII of the Agenda.*

2. **Acceptance of Donations to the Coalition Legal Fund.** Attached are copies of checks from the Town of Carroll in the amount of \$1,000.00, the Town of Tuftonboro in the amount of \$5,000.00 and the Town of Moultonborough in the amount of \$5,000.00 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.*

## ***Items Which Require Action Under Other Sections of the Agenda:***

1. **Public Hearing.**

- 1.1 **Public Hearing Re: Proposed Prime Wetlands Designation.** As you know, designation of prime wetlands was a recommendation outlined in the citywide Master Plan adopted in March 2005. NH RSA 482-A:15 defines prime wetlands as jurisdictional wetlands that “because of their size, unspoiled character, fragile condition or other relevant factors make them of substantial significance.” Pursuant to the applicable DES Wetlands Bureau rules, prime wetlands must meet certain minimum specified criteria.

Under contract to the City, West Environmental, Inc. prepared the documentation needed, per state statute and DES rules, to support the designation of prime wetlands. Attached is a copy of West Environmental’s February 2007 Prime Wetland Analysis Report, which describes the scientific methodology used in developing the list of potential prime wetland candidates. This report also contains the data compiled and analyzed for each wetland.

Both the Conservation Commission (at their April 11, 2007 meeting) and the Planning Board (at their September 20, 2007 meeting) voted in favor of designating prime wetlands as listed in West’s report, and recommended that the City Council take action to officially designate, through the state’s process, these City wetlands as prime wetlands. With regard to wetland 007 located at the Tradeport, the desire of these two boards was that the City Council urge the Pease Development Authority to take action to seek prime designation for 007.

The City Council held a work session regarding prime wetlands on April 7, 2008. At the City Council session that same evening, the Council voted to schedule a public hearing regarding the designation of prime wetlands for April 21, 2008. There were two comments at the public hearing, both in support of designating prime wetlands in the City. The Council also took action on the evening of April 21, 2008 to appropriate \$5,000 from the City’s Conservation Fund in order to complete the prime wetlands mapping effort. The mapping that was subsequently carried out has accomplished the

goal of more precisely mapping, through field verification and other means, the exact boundaries of the prime wetlands. The [attached map](#) depicts fourteen (14) areas, which meet the state criteria for prime wetland designation. On June 21, 2010, the City Council voted to schedule a public hearing regarding the designation of prime wetlands for the July 19, 2010 meeting.

If the City Council proceeds to request that the state designate the identified wetlands as prime wetlands, and following state approval of the designation request, prior to approving a dredge and fill permit an applicant would need to show, and DES would need to find based on clear and convincing evidence, that there would be no significant net loss of prime wetland values as the result of a proposed project; a project is consistent with the purpose specified in RSA 482-A:1; a project cannot be relocated to avoid impacts on prime wetlands; an impact of the project on prime wetlands is the minimum practical; and a project incorporates appropriate mitigation.

At the conclusion of the public hearing, City Council action is needed to seek state designation of the identified wetlands as prime, as well as a letter to the Pease Development Authority urging them to seek prime designation of wetland 007 at Pease.

*Action on this matter will take place under the City Manager's name.*

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

1. **Prime Wetlands Designation.** As mentioned previously, action on this matter will take place under this section of the agenda for the designation of the prime wetlands.

*I would recommend the City Council move the following motions:*

*1) Vote to adopt prime wetlands as designated on the Proposed Prime Wetland map with the exception of wetland 007 located on the Pease Tradeport and to authorize the City Manager to forward all necessary supporting documentation to the NH Department of Environmental Services for their review.*

*2) Vote to authorize the City Manager to send a letter to the Pease Development Authority to ask them to seek state designation of wetland 007 as a Prime Wetland.*

2. **Request for License Agreement Re: 51 Islington Street, LLC.** 51 Islington Street LLC, owner, seeks a license agreement to use a portion of the sidewalk and four on-street parking spaces along Islington Street to facilitate construction activities at that location. Site improvements were approved by the Planning Board on June 28, 2007.

The owner seeks a license to commence immediately through April 1, 2011, at the location shown on the [attached exhibit](#). The owner is finalizing a Construction Management and Mitigation Plan.

There is an impact on 3 on-street parking spaces (the project as approved reduces 4 spaces to 3). The proposed License Agreement includes a \$60.00 per day charge, Sundays excepted for the on-street parking impact. The proposed license would require the owner to maintain a temporary sidewalk which is ADA accessible. Owner would also be required to remove snow from the temporary sidewalk.

*I would recommend the City Council move to authorize the City Manager to enter into a license with 51 Islington Street LLC to facilitate construction activities.*

3. **Request for a License from Jeff Casler, owner of Second Time Around 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 Jeff Casler, owner of Second Time Around for property located at 19 Congress Street, to install a projecting sign on a new bracket (see attached photographs).

This request was received by the Planning Department on May 27, 2010, and reviewed by the Planning Board on June 17, 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 Jeff Casler, owner of Second Time Around, to install a projecting sign on a new bracket at 19 Congress Street and further authorize the City Manager to execute a License Agreement for this request.*

4. **Approval of Downtown Portsmouth Zero Waste Project.** As you will recall at the June 21<sup>st</sup> City Council meeting, the Council held a work session regarding the Downtown Portsmouth Zero Waste Project. Attached is an aerial map showing seven proposed locations downtown for the placement of the recycling containers.

*I would recommend the City Council move to authorize the City Manager to proceed with the placement of recycling containers in downtown Portsmouth, as presented at the work session and the attached map location.*



5. **Report Back Re: Red Ginger, LLC, 261 South Street.** As you will recall at the June 7, 2010 City Council meeting, the Council approved a Sidewalk Obstruction License with the following stipulations for The Red Ginger, LLC, 261 South Street:

Stipulations:

- The two (2) benches located partially on City property will be removed.
- A maximum of two (2) tables, no more than 27 inches in diameter.
- A maximum of six (6) chairs in total, typically three (3) chairs per table.
- All tables and chairs are to be brought inside the building at end of the store's business day.
- The placement of the tables is to be as shown on the plan.
- One (1) flag located as shown on the plan.
- The above items will be allowed by temporary license on City property as shown for a five (5) week trial period concluding July 19<sup>th</sup>. At that time, the issue will come back before the City Council and assuming no neighborhood concerns are raised, a license will be issued.
- The license should be revocable at any time if the applicant fails to comply with these criteria or impedes public passage on the city sidewalk.

As stated in the aforementioned stipulations, the temporary license concludes on July 19<sup>th</sup>. At this time, we have heard no concerns regarding this request.

*I would recommend the City Council move to approve the extension of the Sidewalk Obstruction License for The Red Ginger, 261 South Street for the remainder of the year at which time it is renewable annually.*

6. **Request to Establish a Work Session with Recreation Board Re: Recreation Needs Study.** The Recreation Board is available to review the Recreation Needs Study at the Tuesday, September 7, 2010 City Council meeting or at the Monday, August 2, 2010 City Council meeting.

As you will recall, we previously scheduled the Continuing Care Retirement Community (CCRC) work session for August 2<sup>nd</sup>. If the City Council wishes, we could push the CCRC work session to the August 16<sup>th</sup> City Council meeting and have the Recreation Needs Study work session on August 2<sup>nd</sup>. If not August 2<sup>nd</sup>, then place this matter on the September 7, 2010 City Council agenda.

*In any event, I am requesting that the City Council move to establish a date with the Recreation Board for a work session, regarding the Recreation Needs Study.*

7. **Representatives to the Rockingham Metropolitan Planning Organization (MPO) Technical Advisory Committee (TAC).** City Council action is needed to affirm the City's representatives to the Technical Advisory Committee (TAC) of the Rockingham Metropolitan Planning Organization (MPO). The Rockingham MPO is a federally designated entity that administers the urban transportation planning process for the 27 communities of the Rockingham Planning Commission. TAC, whose purpose is to provide technical advice and recommendations concerning transportation issues that have bearing on the region, is a standing committee of the Rockingham MPO. The work of the TAC often involves prioritizing transportation improvements, reviewing studies and providing input to the NH Department of Transportation and other agencies.

*I would recommend the City Council designate the following individuals to act as the City's representatives to the Rockingham Metropolitan Planning Organization (MPO) Technical Advisory Committee (TAC) for the July 1, 2010 to June 30, 2013 term:*

*Steve Parkinson, Public Works Director*

*Dave Allen, Deputy Public Works Director (alternate)*

*Rick Taintor, Planning Director (alternate)*

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

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on June 21, 2010. In addition, this now can be found on the City's website.
2. **Notice of Public Meeting Re: Middle School Building Project Update.** [Attached](#) is an invitation from the Portsmouth Middle School Joint Building Committee, regarding the Middle School Building Project Update for the public on Wednesday, July 21, 2010 at 6:30 p.m., in the Eileen Dondero Foley Council Chambers.