

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, OCTOBER 18, 2010 TIME: 7:00PM

AGENDA

- I. CALL TO ORDER [7:00PM or thereafter]
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE

PROCLAMATION

- 1. USS Virginia

- V. ACCEPTANCE OF MINUTES – October 4, 2010

- VI. PUBLIC COMMENT SESSION

- VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Primex Grant for Safety Equipment in the amount of \$10,000.00.

- VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading on Proposed Bonding Resolution of up to Six Million Four Hundred Thousand Dollars (\$6,400,000) for Capital Improvement Projects Identified in FY 2011 Budget.
- B. First Reading on Proposed Bonding Resolution for the sum of Five Hundred Thousand Dollars (\$500,000) for Lease Purchase to Replace Fire Engine Number 6.
- C. First Reading on Proposed Ordinance amending the City Ordinances, Chapter 1, Article IV, Section 1.404(A)(1) – Commissions and Authorities, Historic District Membership.
- D. Third and Final Reading of Proposed Ordinance amending the City Ordinances, Chapter 10 – Zoning Ordinance, Article 4, Section 10.420 – District Location and Boundaries and the Zoning Map. (Rezoning of Former Fire Station 2)
- E. Third and Final Reading of Proposed Ordinance amending the City Ordinances, Chapter 10 - Zoning Ordinance, Articles 4 and 5.

- IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Kelly Sicard, Breathe New Hampshire, requesting to hold 26th annual Seacoast Bike Tour on May 14 and 15, 2011. ***(Anticipated Action – move to refer to the City Manager with Power)***

- B. Acceptance of Donation in the amount of \$25.00 for Peirce Island Committee from Joanne Angier Revocable Trust. ***(Anticipated Action – moved to approve and accept the donation to the Peirce Island Committee as presented)***
- C. Acceptance of Donation for Art-Speak for Overnight Arts Sponsorship from Nahcotta Gallery in the amount of \$100.00. ***(Anticipated Action – move to accept and approve the donation to Art-Speak for Overnight Art Sponsorship, as presented.)***
- D. Letter from Patti Hanley McCabe, Arthritis Foundation, requesting to hold the Portsmouth Jingle Bell Run and Walk on November 20, 2010. ***(Anticipated Action – move to refer to the City Manager with Power)***

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Jeffrey H. Marple, USS Virginia Blue Ribbon Host Committee, requesting permission to place banner between 254 State Street and the Rusty Hammer Building at 49 Pleasant Street.
- B. Letter from Will Abbott, Society for the Protection of New Hampshire Forests regarding loop trail linking Creek Farm with the Wentworth-Coolidge Estate.
- C. Letter from Mr. and Mrs. Robert Driscoll requesting the Relocation of the Farmers Market.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

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

- 1. First Reading on Proposed Bonding Resolution of up to Six Million Four Hundred Thousand Dollars (\$6,400,000) for Capital Improvement Projects Identified in FY 2011 Budget. ***(Action on this Item should take place under Section VIII of the Agenda)***
- 2. First Reading on Proposed Bonding Resolution for the sum of Five Hundred Thousand Dollars (\$500,000) for Lease Purchase to Replace Fire Engine Number 6. ***(Action on this Item should take place under Section VIII of the Agenda)***
- 3. First Reading on Proposed Ordinance amending the City Ordinances, Chapter 1, Article IV, Section 1.404(A)(1) – Commissions and Authorities, Historic District Membership. ***(Action on this Item should take place under Section VIII of the Agenda)***
- 4. Third and Final Reading of Proposed Ordinance amending the City Ordinances, Chapter 10 – Zoning Ordinance, Article 4, Section 10.420 – District Location and Boundaries and the Zoning Map. (Rezoning of Former Fire Station 2) ***(Action on this Item should take place under Section VIII of the Agenda)***
- 5. Third and Final Reading of Proposed Ordinance amending the City Ordinances, Chapter 10 - Zoning Ordinance, Articles 4 and 5. ***(Action on this Item should take place under Section VIII of the Agenda)***

City Manager's Items Which Require Action

1. Request for License Agreement Re: 337 Pleasant Street

Informational Items

1. Events Listing
2. City Council Draft Schedule for 2011

B. MAYOR FERRINI

1. Appointments to be Considered:
 - Paul Ford – Taxi Commission (Taxi Company representative)
 - Lisa Destefano - Economic Development Commission (Reappointment)
 - Dana Levenson – Economic Development Commission (Reappointment)
 - Joshua Cyr – Economic Development Commission (Reappointment)
2. Appointments to be Voted:
 - William Gladhill – Historic District Commission (Planning Board Representative)

C. COUNCILOR DWYER

1. *Middle School Project Update

D. COUNCILOR KENNEDY

1. *City Assessments

XII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

**Indicates Verbal Report*

INFORMATIONAL ITEMS

1. Notification that the Historic District Commission Minutes of the August 4, 2010, August 11, 2010 and August 18, 2010 meetings are available on the City's website for your review.
2. Notification that the Conservation commission Minutes of the September 8, 2010 meeting 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: October 14, 2010
To: Honorable Mayor Thomas G. Ferrini and City Council Members
From: John P. Bohenko, City Manager
Re: City Manager's Comments on October 18, 2010 City Council Agenda

Acceptance of Grants/Donations:

1. **Acceptance of Primex Grant for Safety Equipment.** The City of Portsmouth has received a \$10,000 grant from Primex through its Workers' Compensation Safety Improvement Program. These funds will be used to purchase Confined Space Entry Equipment and a Mechanical Lifting Device.

I would recommend the City Council move to approve and accept the Primex Grant for safety equipment, as presented. Action on this matter will take place under Section VII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. **Consideration of First Reading of Proposed Ordinance Amendments and Resolutions:**
 - 1.1 **First Reading of Proposed Bonding Resolution of up to Six Million Four Hundred Thousand Dollars (\$6,400,000) Re: Capital Improvement Projects Identified in FY 2011 Budget.** As a result of the October 4th City Council meeting, under Section VIII of the Agenda, I am bringing back for first reading the [attached proposed Bonding Resolution](#) of up to Six Million Four Hundred Thousand Dollars (\$6,400,000) for Fiscal Year 2011 Citywide Facilities, Street, Sidewalks and Storm Water Drain System Improvements. These projects are as follows and are identified in the FY11 Capital Improvement Program ([see attached element sheets and memorandum](#) from Steve Parkinson, Public Works Director):
 - 1) BI-PW-29: Citywide Facilities' Capital Improvements (Pages 81 and 82) – (\$1,000,000).

- 2) TSM-CITY-09: BIKE/PED: Citywide Sidewalk Reconstruction Program (Pages 102 and 103) – (\$600,000).
- 3) TSM-CITY-27: ROADWAY: Street Paving, Management and Rehabilitation (Pages 121 and 122) – (\$2,500,000).
- 4) BI-PW-28: Maple Haven Storm Water Drain System (Page 80) – (\$1,000,000).
- 5) TSM-CITY-08 : BIKE/PED : State Street Sidewalk Replacement (Page 101) – (\$400,000).
- 6) TSM-CITY-12: BIKE/PED: Middle Road New Sidewalk Construction (Page 106) – (\$500,000).
- 7) TSM-CITY-20: ROADWAY: McDonough Street Area Improvements Project (Page 114) – (\$400,000).

As you are aware during the CIP process, the City Council approved a Capital Plan that identified the aforementioned projects but requires separate vote of the City Council on items that need to be bonded. The bonding requires two readings and a public hearing with two-thirds vote of the City Council.

I would recommend the City Council move to pass first reading and bring back for a public hearing and adoption the proposed Bonding Resolution, as presented, at the November 8th City Council meeting. Action on this matter will take place under Section VIII of the Agenda.

- 1.2 **First Reading on Proposed Bonding Resolution for the sum of Five Hundred Thousand Dollars (\$500,000) for Lease Purchase to Replace Fire Engine Number 6.** As a result of the October 4th City Council meeting, under Section VIII of the Agenda, I am bringing back for first reading the [attached proposed Bonding Resolution](#) for the sum of Five Hundred Thousand Dollars (\$500,000) through the issue of bonds and notes or the execution of lease purchase agreements for the acquisition of one fire apparatus to replace Fire Engine Number 6. A new engine for District 1 is in the CIP for FY11. See [attached element sheet VE-FD-02: Vehicle Replacement Fire Engine Number 6 \(Page 39\)](#) and a memorandum from Fire Chief Christopher LeClaire.

As you are aware, bonding resolutions require a public hearing, two readings and a two-thirds vote is required of the City Council for passage.

I would recommend the City Council move to pass first reading and bring back for a public hearing and adoption the proposed Resolution, as presented, at the November 8th City Council meeting. Action on this matter will take place under Section VIII of the Agenda.

1.3 **First Reading on Proposed Ordinance amending the City Ordinances, Chapter 1, Article IV (Section 1:404(A)(1) – Commissions and Authorities, Historic District Membership.** As a result of the October 4th City Council meeting, under Section VIII of the Agenda, I am bringing back for first reading the [attached proposed Ordinance](#) amendment to the City Ordinances, Chapter 1, Article IV (Section 1:404(A)(1) – Commission and Authorities, Historic District Membership. The membership of the Commission is defined in Section 1.404(A)(1) which states in part,

One of the members shall be a City Council member and another shall be a Planning Board member as provided by State Law.

However, the applicable State statute (RSA 673:4, II) actually provides as follows:

One commission member shall be a member of the local governing body and one commission member may be a member of the planning board. [emphasis added]

In Portsmouth, both the Planning Board and the Historic District Commission have heavy workloads, frequently requiring special meetings. As a result, it has been difficult to fill the Planning Board seat on the HDC.

The HDC ordinance also requires that “At least two members shall be residents of the Historic District and at least one member shall be a person owning or being employed in a business within the Historic District.” This requirement supports the requirement that members “have demonstrated interest in and commitment to promote the purposes” of the Historic District. However, it also means that individual members must often recuse themselves from acting on particular cases where they may be abutters to a proposed project or participants in an application.

As a result of the lack of a Planning Board representative combined with recusals of other members, the Commission often hears applications with less than a full complement of members, which may be detrimental to the applicant. After considering this issue for several months, the Planning Board voted at its meeting on September 16, 2010, to recommend that the City Council amend the City Ordinance to reflect the State statute on historic district commissions. The specific change would be as follows:

Amend the City of Portsmouth Ordinances, Chapter 1 – Administrative Code, Article IV – Commissions and Authorities, Section 1.404(A)(1), second sentence, by changing the words “shall be a Planning Board member” to “may be a Planning Board member.”

This change would free up the HDC seat reserved for Planning Board members, and allow it to be filled by another qualified member, thereby increasing the number of members potentially available to sit on a particular case.

I am recommending that the City Council move to pass first reading and schedule second reading and a public hearing on the proposed Ordinance, as presented, at November 8th City Council meeting. Action on this matter will take place under Section VIII of the Agenda.

2. **Third and Final Reading of Proposed Ordinance Amendments and Resolutions:**

- 2.1 **Third and Final Second Reading of Proposed Ordinance amending the City Ordinances, Chapter 10 –Zoning Ordinance, Article 4, Section 10.420 – District Location and Boundaries and the Zoning Map.** As a result of the October 4th City Council meeting, under Section VIII of the Agenda, I am bringing back for third and final reading the [attached proposed Ordinance](#) amending Chapter 10, Article 4, Section 10.420 – District Location and Boundaries of the Zoning Ordinance of the City of Portsmouth and the City of Portsmouth Zoning Map. [Attached is a memorandum](#) from Rick Taintor, Planning Director, outlining a proposed rezoning of 2700 Lafayette Road (former Fire Station #2) from Municipal District to Gateway District.

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

- 2.2 **Third and Final Reading of Proposed Ordinance amending the City Ordinances, Chapter 10 - Zoning Ordinance, Articles 4 and 5.** As a result of the October 4th City Council meeting, under Section VIII of the Agenda, I am bringing back for third and final reading the [attached proposed Ordinance](#) amending Articles 4 and 5 of the Zoning Ordinance. [Attached is a memorandum](#) from Rick Taintor, Planning Director, outlining three proposed zoning ordinance amendments to Articles 4 and 5 – Dimensional and Intensity Standards of the Zoning Ordinance.

The proposed amendments make the following changes:

1. For multifamily dwellings in the Garden Apartment/Mobile Home (GA/MH) zoning district, replace the current maximum of 8 dwelling units per building with a maximum building length of 160 feet;
2. For residential zoning districts along Lafayette Road, apply the same front yard requirements as currently apply to nonresidential zoning districts along Lafayette Road;
3. Reduce the side and rear setback standards for accessory structures in zoning districts where the required side yard or rear yard is less than 10 feet.

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

Consent Agenda:

1. **Acceptance of Donation for Peirce Island Committee.** The Peirce Island Committee has received a donation in the amount of \$25.00 from Joanne Angier Revocable Trust for Peirce Island Committee activities.

I would recommend the City Council move to approve and accept the donation to the Peirce Island Committee, as presented. Action on this matter should take place under Section IX of the Agenda.

2. **Acceptance of Donation for Art-Speak for Overnight Art Sponsorship.** Art-Speak requests that a donation in the amount of \$100.00 from Nahcotta Gallery for Overnight Art Sponsorship be accepted by the City Council.

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

City Manager's Items Which Require Action:

1. **Request for License Agreement Re: 337 Pleasant Street.** Nick Gray Builders, LLC seeks a License Agreement to continue to use a portion of the sidewalk and on street-parking in front of 337 Pleasant Street to facilitate construction activities at that location. Nick Gray Builders LLC previously obtained an encumbrance permit (30-day limit) from the Inspections Department, but requires additional time to complete its work. See [attached letter](#) request for a license. See also the [attached aerial view](#) of the proposed license area.

The license would have the usual terms and conditions related to limitation of use, restoration of any damage and insurance requirements. The license would commence immediately for a period of two months with the option for the City Manager to extend the license term at his discretion. There is anticipated to be an intermittent impact to the on-street parking during those occasions when a temporary sidewalk is required and for deliveries and construction parking. That impact will be governed by the license terms which will be coordinated with the Department of Public Works.

I would recommend the City Council move to authorize the City Manager to negotiate and enter into a license with Nick Gray Builders, LLC to facilitate construction activities at 337 Pleasant Street.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on October 4, 2010. In addition, this now can be found on the City's website.

2. **City Council Draft Schedule for 2011.** [Attached for your review](#) is a proposed schedule for City Council meetings for calendar year 2011. Please note that wherever there is a holiday, the meeting goes to Tuesday. I would like to have the City Council vote on this schedule at your November 8th City Council meeting. If there are any conflicts, please let my office know.