

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: TUESDAY, FEBRUARY 22, 2011 TIME: 7:00PM

AGENDA

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

PRESENTATION

- 1. Proposed Lease of South Meeting House by the Portsmouth Public Media Group, Inc.

V. ACCEPTANCE OF MINUTES – FEBRUARY 7, 2011

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARINGS

- A. RESOLUTION INCREASING THE MAXIMUM INCOME LIMIT FOR INDIVIDUALS QUALIFYING FOR THE ELDERLY REAL ESTATE TAX EXEMPTION TO \$33,514.00 FOR SINGLE AND \$41,343.00 FOR MARRIED AND TOTAL ASSETS MAY NOT EXCEED \$111,718.00 WHETHER SINGLE OR MARRIED
- B. RESOLUTION INCREASING THE MAXIMUM INCOME LIMIT FOR INDIVIDUALS QUALIFYING FOR THE DISABLED REAL ESTATE TAX EXEMPTION TO \$33,514.00 FOR SINGLE AND \$41,343.00 FOR MARRIED AND TOTAL ASSETS MAY NOT EXCEED \$111,718.00 WHETHER SINGLE OR MARRIED
- C. ORDINANCE AMENDING THE CITY ZONING ORDINANCE, CHAPTER 10, ARTICLE 7, SECTION 10.730 – GATEWAY DEVELOPMENT, SUBSECTION 10.735 – SUSTAINABILITY STANDARDS

VIII. APPROVAL OF GRANTS/DONATIONS

- A. African Burying Ground Project Donation - \$750.00 (***Sample motion – move to accept and expend a total of \$750.00 in donated funds from the Seacord Family for fundraising costs associated with the African Burying Ground Memorial Park project***)

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Adoption of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Elderly Real Estate Tax Exemption to \$33,514.00 for single and \$41,343.00 for married and total assets may not exceed \$111,718.00 whether single or married (***Sample motion – move to adopt the Resolution for Elderly Exemptions, as submitted***)

- B. Adoption of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Disabled Real Estate Tax Exemption to \$33,514.00 for single and \$41,343.00 for married and total assets may not exceed \$111,718.00 whether single or married ***(Sample motion – move to adopt the Resolution for Disabled Exemptions, as submitted)***
- C. Second reading of Ordinance amending Zoning Ordinance, Article 7, Section 10.730 – Gateway Development, Subsection 10.735 – Sustainability Standards ***(Sample motion – move to accept the recommendation of the Planning Board and pass second reading and schedule a third and final reading of the proposed Zoning Ordinance, as presented, at the March 7, 2011 City Council meeting)***

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Donations for USS Virginia
 - Carol and Harry McClard - \$40.00
 - Robert J. and Cynthia A. Lister - \$50.00
 - Neal L. Ouellett or Darlene Furbush Ouellett - \$50.00
 - William F. Clifford, Jr. - \$50.00
 - Portsmouth Little League - \$100.00
 - The American Legion, Frank E. Booma Post No. 6
 - Antoinette Galvin - \$150.00
 - Mark and Susan Reiner - \$200.00
 - Gino Baroni / Trident Advantage - \$275.00
 - The American Legion, Frank E. Booma Post No. 6
 - Portsmouth Rotary - \$500.00***(Anticipated action – move to approve and accept the donations for the USS Virginia, as presented)***
- B. Letter from Heidi Roy, National Multiple Sclerosis, requesting permission to hold the 2011 Bike MS Seacoast Escape on Saturday, August 13, 2011 ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Todd Hanson, New Heights and Paddy's American Grille, requesting permission to hold the second annual St. Paddy's 5 Miler on Sunday, March 13, 2011 at the Pease Tradeport ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from M. Kate Knight, Sexual Assault Support Services, requesting permission to hold a Candlelight Vigil on Thursday, April 7, 2011 from 7:00 p.m. – 8:30 p.m. in the Vaughan Mall ***(Anticipated action – move to refer to the City Manager with power)***

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from The Retail Committee of the Greater Portsmouth Chamber of Commerce requesting that the City Council and Planning Board review the Projecting Sign application process for streamlining ***(Sample motion – move to refer to the Planning Board for report back)***

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 and Adoption of Proposed Resolutions:
 - 1.1 Public Hearing and Adoption of Resolution Amending Elderly & Disabled Exemptions Income Asset Limits (**Action on this item should take place under Section IX of the Agenda**)
2. Public Hearing/Second Reading of Proposed Ordinance Amendments:
 - 2.1 Public Hearing/Second Reading of Proposed Amendment to the Zoning Ordinance, Article 7, Section 10.730 – Gateway Development, Subsection 10.735 – Sustainability Standards (**Action on this item should take place under Section IX of the Agenda**)

City Manager's Items Which Require Action

1. Report Back Re: Draft Pilot – Use of City Property for Outdoor Seating with Alcohol Service
2. Request to Establish Public Hearing Re: Proposed Supplemental Appropriation for Construction of the Youth Recreation Facility
3. Request to Renew Lease of 251 Bartlett Street by the Creek Athletic Club
4. Report Back Re: Letter from Portsmouth Housing Authority Regarding Wamesit Place
5. Non-resident members at Spinnaker Point Recreation Center
6. Teacher's Early Retirement Incentive

Informational Items

1. Events Listing
2. African Burying Ground Trust Donation

B. MAYOR FERRINI

1. Letter from Brian Wazlaw regarding not seeking reappointment to Conservation Commission (**Sample motion – move to accept and place letter on file**)

C. ASSISTANT MAYOR NOVELLINE CLAYBURGH

1. *Charter Amendments

D. COUNCILOR COVIELLO

1. Bridge Street Parking Lot use post Worth Lot Parking Garage Construction

E. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the February 10, 2011 meeting
2. Parking Committee Action Sheet and Minutes of the February 10, 2011 meeting

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

**Indicates Verbal Report*

INFORMATIONAL ITEMS

1. Notification that the Board of Adjustment Minutes of November 16, 2010 meeting are available on the City's website for your review
2. Notification that the Conservation Commission Minutes of the January 19, 2011 meeting are available on the City's website for your review
3. Notification that the Historic District Commission Minutes of the December 8, 2010 and January 5, 2011 meetings are available on the City's website for your review
4. Notification that the Site Review Technical Advisory Committee Minutes of the January 4, 2011 and February 1, 2011 meetings 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: February 17, 2011
To: Honorable Mayor Thomas G. Ferrini and City Council Members
From: John P. Bohenko, City Manager
Re: City Manager's Comments on February 22, 2011 City Council Agenda

Presentation:

1. **Proposed Lease of South Meeting House by the Portsmouth Public Media, Inc.** On Tuesday evening, Assistant City Attorney Suzanne Woodland and David Underhill of Portsmouth Public Media, Inc. (PPM) will make a presentation regarding a proposed lease of the South Meeting House. This lease was developed in coordination with a Committee of the Friends of the South End (FOSE). Portsmouth Public Media has expressed interest in leasing the South Meeting House on Marcy Street for use as its offices and production studio. City staff and the FOSE Subcommittee has met with PPM to discuss the organization's needs and developed a proposed 5-year lease. [Attached is a summary](#) of the key terms of the proposed lease as well as a complete copy of the draft lease. Some minor provisions may change such as notice requirements during final negotiations. Suzanne Woodland will be available to provide an overview of the proposed lease terms.

If the City Council expresses its interest in proceeding with a lease, including bringing the matter forward to a vote at its next meeting, PPM will meet with Comcast representatives and an architect to ensure that its broadcast and business needs can be met at the South Meeting House location. Comcast was not prepared to do the engineering necessary to evaluate the location until the City Council expresses its interest in making the space available to PPM. Comcast's investigation/engineering estimate process should take 45 days. If Comcast and PPM's architect confirm, as is expected, that the building can be improved and used by PPM at a reasonable cost, PPM will proceed to execute the proposed lease.

I would recommend the City Council move to bring the proposed Lease between the City of Portsmouth and Portsmouth Public Media, Inc. back for action at its March 7th City Council meeting.

Acceptance of Grants/Donations:

1. **Acceptance of African Burying Ground Project Donation.** As you know, the African Burying Ground Committee is moving forward with fundraising plans for the construction of the African Burying Ground Memorial Park – We Stand in Honor of Those Forgotten. In preparation for the fundraising effort, the Committee has received a donation from the Seacord Family for \$750.00 to fund costs directly related to developing materials for the fundraising campaign.

As this donation is provided for fundraising soft costs and will be expended immediately, rather than for the construction of the memorial park, it will be deposited in a City account rather than in the African Burying Ground Trust, which has been established as a repository for construction and maintenance funds.

I would recommend the City Council move to accept and expend a total of \$750.00 in donated funds from the Seacord Family for fundraising costs associated with the African Burying Ground Memorial Park project.

Items Which Require Action Under Other Sections of the Agenda:

1. **Public Hearing and Adoption of Proposed Resolution:**
 - 1.1 **Public Hearing and Adoption of Resolution Amending Elderly & Disabled Exemptions Income Asset Limits.** As a result of the February 7th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and adoption the [attached proposed Resolutions](#) amending Elderly and Disabled Exemption Income and Asset Limits using Option A, which is a 1% increase.

Annually, the City of Portsmouth reviews income and asset levels for both the Elderly and Disabled Exemptions pursuant to RSA 72:39-b and RSA 72:37-b and makes recommendations as to these levels.

Last year, the City Council adopted resolutions # 2-2010 and # 3-2010 which increased the income and asset levels for both the elderly and disabled exemptions by 1.82% from the previous year. The current elderly and disabled exemption income levels are \$33,182 for a single taxpayer, \$40,933 for married taxpayers, and an asset limit of \$110,611.

If qualified, for elderly taxpayers, the exemption off the assessed value of the property is as follows:

- Age 65 to 74 \$125,000
- Age 75-79 \$175,000
- Age 80 + \$225,000

If qualified, for disabled taxpayers, the exemption off the assessed value of the property is \$100,000.

This year the November to November CPI of the Boston-Brockton-Nashua November consumer price index (CPI) is .64%.

At the February 7th City Council meeting, the Council voted to adjust the income and asset levels for both the elderly and disabled taxpayers by rounding up the .64% CPI to 1%, this would increase the limits as follows:

- Single \$33,514 increase of \$332
- Married \$41,343 increase of \$410
- Asset Limit of \$111,718 increase of \$1,107

This adjustment would be for assessments as of April 1, 2011 for the 2011 tax year or FY12.

The Assessor's office mails a notification annually to all elderly and disabled persons who currently receive this exemption to update their applications. All new applicants must submit an application and required documentation by April 15th of each year.

For your information, [attached is the tax impact for the elderly and disabled exemptions for FY11](#). Also, [attached is a survey of other communities as requested](#).

I would recommend the City Council move to make the following two separate motions:

- 1) Move to adopt the Resolution for Elderly Exemptions, as submitted. (Resolution requires two readings and a majority vote.)*
- 2) Move to adopt the Resolution for Disabled Exemptions, as submitted. (Resolution requires two readings and a majority vote.)*

Action on this item should take place under Section IX of the Agenda.

2. **Public Hearing/Second Reading of Proposed Ordinance Amendments.**

- 2.1 **Public Hearing/Second Reading of Proposed Amendment to the Zoning Ordinance, Article 7, Section 10.730 - Gateway Development, Subsection 10.735 - Sustainability Standards.** As a result of the February 7th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the [attached proposed amendment to the Zoning Ordinance](#), Article 7, Section 10.730 – Gateway Development, Subsection 10.735 – Sustainability Standards. Also, [attached is a memorandum from Rick Taintor](#), Planning Director, outlining this proposed amendment to the Zoning Ordinance. At the January 20, 2011 Planning Board meeting, the Board voted unanimously to recommend to the City Council that the Zoning Ordinance be amended to provide this additional flexibility.

I would recommend the City Council move to accept the recommendation of the Planning Board and pass second reading and schedule a third and final reading of the proposed Zoning Ordinance, as presented, at the March 7th City Council meeting. Action on this item should take place under Section IX of the Agenda.

Consent Agenda:

1. **Acceptance of Donations for USS Virginia.** The City of Portsmouth has received the following donations totaling \$915.00 for the USS Virginia party:

➤ Carol and Harry McClard	\$ 40.00
➤ Robert J. and Cynthia A. Lister	\$ 50.00
➤ Neal L. Ouellett or Darlene Furbish Ouellett	\$ 50.00
➤ William F. Clifford, Jr.	\$ 50.00
➤ Portsmouth Little League	\$ 100.00
➤ The American Legion, Frank E. Booma Post No. 6 – Antoinette Galvin	\$ 150.00
Mark & Susan Reiner	\$ 200.00
Gino Baroni / Trident Advantage	\$ 275.00
➤ The American Legion Frank E. Booma Post No. 6 Portsmouth Rotary	\$ 500.00

I would recommend the City Council move to approve and accept the donations for the USS Virginia, as presented. Action on this matter should take place under Section X of the Agenda.

City Manager's Items Which Require Action:

1. **Report Back Re: Draft Pilot – Use of City Property for Outdoor Seating with Alcohol Service.** As you recall, Pesce Italian Kitchen and Bar has requested permission to utilize approximately 500 square feet of the Vaughan Mall pedestrian way (City-owned land) for expansion of their existing outdoor dining patio for a trial period to

commence on April 15, 2011 and end on October 15, 2011 and to include outdoor alcohol service ([see attached letter](#)). The City Council voted to refer this matter to the City Manager for a report back with a recommendation. [Attached is a report back](#) outlining a pilot use of City property for outdoor seating with alcohol service for a term of April 15, 2011 through October 10, 2011.

I would recommend the City Council move to bring back for a formal vote the draft pilot for use of city property for outdoor seating with alcohol service at the March 7th City Council meeting.

2. **Request to Establish Public Hearing Re: Proposed Supplemental Appropriation for Construction of the Youth Recreation Facility.** As you will recall, on Wednesday, February 9, 2011, the City Council met in a work session with the Middle School Joint Building Committee, Recreation Board, and City staff to discuss the proposed youth recreation facility that would be built in conjunction with the Middle School project to replace the Connie Bean Center. For your information, I have [attached a copy of the presentations](#) that were made that evening. Also, if any Council members are interested, the entire work session is available via webcast archives at www.cityofportsmouth.com.

As part of that discussion, the Joint Building Committee indicated that certain decisions relative to this proposal needed to be made prior to April 2011. The major component is how the City would fund the construction of the facility. As part of the work session, I presented two funding recommendations ([see attached presentations](#)). If the City Council wishes to proceed with the construction of the youth recreation facility, I would recommend that Option B be used to fund the construction of this facility. Option B includes the use of \$512,700.58 from the bond premium from the sale last May of general obligation bonds. State law requires that the use of the bond premium be allocated for use on a capital project with a useful life of 20 years. The remaining \$1,800,000 would be appropriated from undesignated fund balance. Because these are supplemental appropriations, it would require a public hearing and two thirds vote of the City Council to adopt the use of these funds for the purposes described ([see attached resolutions](#)).

I would recommend the City Council establish a public hearing for Monday, March 7th regarding a supplemental appropriation of \$2,312,700.58 for FY11 in accordance with the attached resolutions.

3. **Request to Renew Lease of 251 Bartlett Street by the Creek Athletic Club.** As a result of the February 7th City Council meeting, I am bringing back for a formal vote the request from the Creek Athletic Club to renew the lease of 251 Bartlett Street. In addition, they are proposing to expend at least as much in capital improvements as they would have paid to the City as property taxes, which is the payment provision in the current lease. Also, [attached is a copy of the revised Lease Agreement, which includes Exhibit A](#) outlining the capital improvements and the term of completion by the Creek Athletic Club. The only addition to the proposed Lease is a footnote to page 1 (See RSA 72:23), which changes nothing in the lease but may be of some assistance to future understanding of the compensation provision. The current Agreement is scheduled to

expire on March 31, 2011. The request is for a ten-year extension effective April 1, 2011 through March 31, 2021.

I would recommend that the City Council move to extend the Lease Agreement with the Creek Athletic Club for 251 Bartlett Street for a period of ten years from April 1, 2011 through March 31, 2021, as presented.

4. **Report Back Re: Letter from Portsmouth Housing Authority Regarding Wamesit Place.** As you will recall, at its meeting on February 7, 2011 the City Council voted to refer the [attached Portsmouth Housing Authority \(PHA\) letter](#) dated January 27, 2011 to the Community Development Block Grant (CDBG) Citizens Advisory Committee for a report back. The CDBG Citizens Advisory Committee met on February 10, 2011 to review the matter.

In 1989, the City loaned \$300,000 in CDBG funds from the U.S. Department of Housing and Urban Development to the PHA to assist the agency in purchasing Ridgewood Apartments (now Wamesit Place). At this time, the PHA is working to secure financing for a major rehabilitation of the Wamesit Place apartments. Similar to the financing for the Cottage Senior Housing and Lafayette School Senior Apartments projects, a limited partnership entity will be created to facilitate the use of tax credits and the PHA will be the lead partner. This will effectively be a change in ownership since the 1989 City-PHA Agreement requires repayment of the loan to the CDBG Fund if the PHA's interest in the property is transferred in any fashion to any other entity.

In its January 27th letter to the City Council, the PHA requested that the \$300,000 loan be assigned and assumed by the new entity that will own Wamesit Place and that the funds not be repaid at the loan closing that will finance the improvements. At its meeting, the Citizens Advisory Committee discussed the request and heard from Joe Couture, Executive Director of the PHA and Bill Shanahan of the Northern New England Housing Investment Fund (the PHA's consultant on this development project).

As a result, the Committee voted unanimously to recommend the City Council authorize the City Manager to take all necessary steps to transfer the existing \$300,000 loan to the new entity as proposed by the Housing Authority with an additional consideration. In exchange for agreeing to transfer the obligation, the Committee recommended the City enter into a new agreement that would require that the original \$300,000 loaned to the PHA in 1989 accrue interest of 2% per annum from the date of the new agreement and be payable upon 30 years. The triggering of repayment prior to the 30 year term would be similar to the 1989 agreement, which requires repayment if the property is not maintained solely for rental to people who earn low or moderate incomes or the property is transferred to another entity. In either of those two circumstances, the repayment of the greater of \$300,000 plus the accrued interest, or 6% of the market value (determined by reference to assessment records), would become due. All relevant regulatory requirements, which are part of the CDBG program and referred to in the original Agreement will be incorporated as applicable to the new financing.

Two key considerations factored into this recommendation from the Committee. First, the 100 unit housing development is greatly in need of the significant interior and exterior upgrades proposed by the Housing Authority. Second, the new financing associated with the renovation will ensure the affordability of these units for a period of 30 years. Both of these considerations are in keeping with the goal of retaining quality affordable housing in the City.

I would recommend the City Council vote to accept the report back from the CDBG Citizens Advisory Committee and authorize the City Manager to take all actions necessary to implement the recommendation.

5. **Non-resident members at Spinnaker Point Recreation Center.** Attached is a memorandum from Rus Wilson, Recreation Director, dated February 11, 2011, regarding the Spinnaker Point Condo Association Board of Directors' approval to allow all non-Portsmouth residents, within agreement parameters, to become members of the Spinnaker Point Recreation Center. The City Council would have to amend the Field House Management Agreement (see attached) to reflect this change. All other Agreement provisions will remain the same including the fee for non-residents and membership limitations. The intent of allowing non-resident membership is to try to achieve 100% self-sustaining operation for Spinnaker Point.

I would recommend the City Council move to authorize the City Manager to enter into an amended Agreement with Spinnaker Point Condominium Association to allow non-Portsmouth residents to become members of Spinnaker Point.

6. **Teacher's Early Retirement Incentive.** The School Board has requested that the City Council consider approving the teacher's early retirement incentive. To be eligible, members will need to have completed twenty-five years or more of service in the District by the end of the 2010-2011 school year; file an irrevocable written commitment to retire from the District and actually retire under the New Hampshire Retirement System.

Eligible members would receive the following subsidy paid from the health stabilization account from the district for health insurance until June 30, 2014:

- a) 50% of the single plan
- b) 50% of the two-person plan
- c) 50% of the two-person plan towards the family plan

As of this date, only one teacher has accepted this package subject to City Council approval. The anticipated savings to the school district is \$11,000 in FY'12.

I am recommending that the City Council approve the request from the Portsmouth School Board to offer a retirement incentive to teachers with twenty-five (25) or more years of creditable service in the School Department.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on February 7, 2011. In addition, this now can be found on the City's website.

2. **African Burying Ground Donation.** The African Burying Ground Committee has received the following donation to the African Burying Ground Trust since its January 17, 2011 memo to City Council. The total donated to date is \$3,770:
 - Robert & Patrice Dufour \$100.00