

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: WEDNESDAY, APRIL 4, 2007 TIME: 7:00PM

AGENDA

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

PRESENTATION

- 1. Mayor's Committee on Building Re-use – Lafayette School Listening Session – Heather Hurtt, Chair

V. ACCEPTANCE OF MINUTES – MARCH 19, 2007

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARINGS

- A. RE-USE OF DOBLE RESERVE CENTER. THE FEDERAL PROCESS RELATING TO THE CLOSURE OF THE CENTER WILL BE EXPLAINED, COMMENTARY WILL BE RECEIVED FROM THOSE ENTITIES WHICH HAVE EXPRESSED AN INTEREST IN RE-USE OF THE CENTER AND PUBLIC COMMENT WILL BE SOLICITED WITH REGARD TO THOSE MATTERS
- B. ORDINANCE AMENDING CHAPTER 7, ARTICLE IX, SECTION 7.901 – PENALTIES, FORFEITURE AND SEPARABILITY – INCREASING FINES LISTED UNDER ITEM A AND F OF SECTION 7.901 – PENALTIES
- C. ORDINANCE AMENDING CHAPTER 7, ARTICLE XI, SECTION 7.1100 – SPEED LIMITS SUB-SECTION B – SPEED LIMIT 20 MPH BY THE ADDITION OF PEIRCE ISLAND ROAD
- D. ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.330 – NO PARKING SUB-SECTION A BY THE ADDITION OF PEIRCE ISLAND ROAD: BOTH SIDES OF THE STREET FROM MOST EASTERLY ACCESS OF THE CITY POOL TO THE ACCESS/EGRESS OF THE SEWER TREATMENT PLANT

VIII. APPROVAL OF GRANTS AND DONATIONS

There are no items under this section of the agenda which require action this evening

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance amending Chapter 10, Article II, Section 10-208 – Uses in Business Districts – Table 4 and Chapter 10, Article II, Section 10-209 – Uses in Industrial Districts – Table 5 regarding the Regulation of Amusement Parks/Outdoor Recreation in the Industrial & General Business Districts Respectively
- B. Second reading of Ordinance amending Chapter 7, Article IX, Section 7.901 – Penalties, Forfeiture and Separability - increasing fines listed under Item A and F of Section 7.901 - Penalties
- C. Second reading of Ordinance amending Chapter 7, Article XI, Section 7.1100 – Speed Limits sub-section B – Speed Limit 20 MPH by the addition of Peirce Island Road
- D. Second reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking sub-section A by the addition of Peirce Island Road: both sides of the street from most easterly access of the City pool to the access/egress of the sewer treatment plant
- E. Third and final reading of Ordinance amending Chapter 10, Section 10-102 – Definition: Floor Area Ratio, Section 10-304 (A) Business – Table 10 Dimensional Requirements; and Section 10-304 by the addition of a New (E) and (F) for Central Business A District (CBA). This Ordinance proposes changes to certain dimensional requirements in Central Business A. Those changes include a 40 foot height limitation within 10 feet of a street right of way and the establishment of variable floor area ratios affecting maximum lot coverage requirements

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Terri DeCarli, Muscular Dystrophy Association, requesting permission to hold the Trans NH Bike Ride on Sunday, June 24, 2007 ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Michael Amarello and Michael St. Laurent, 3C Race Productions, requesting permission to hold a one-mile road race on Sunday, July 23, 2007 ***(Anticipated action – move to refer to the City Manager with power)***
- C. Acceptance of Donation to the New Library Building Fund
 - Jack E. and D. Dianne Chambers - \$250.00

(Anticipated action – move to approve and accept the donations to the New Library Building Fund as listed)

D. Renewal Requests for Sidewalk Obstruction Licenses from the following businesses with no changes from last year

- Ambrosia Gardens – 1 A-frame sign
- Chamber of Commerce – 1 A-frame sign
- Dos Amigos Burritos – 1 Bench
- Madd Matt's Ice Cream – 1 A-frame sign
- Market Street Tub Shop – 1 A-frame sign
- Portsmouth Brewery – 1 A-frame sign
- Portsmouth Gas Light – 1 A-frame sign

(Anticipated action – move to refer to the City Manager with power)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Gary Epler, St. John's Stewardship of the Earth Committee, requesting permission to hold a rally in Market Square on Saturday, April 14, 2007 from 12:00 p.m. – 2:00 p.m.
- B. Letter from Glenn Brackett, International Brotherhood of Electrical Workers, requesting permission for their event that is taking place on May 19, 2007 at the Prescott Park Public Forum area

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items which require Action under other sections of the Agenda

1. Consideration of First Reading of Proposed Ordinance Amendments:
 - 1.1 First reading of Ordinance amending Chapter 10, Article II, Section 10-208 – Uses in Business Districts – Table 4 and Chapter 10, Article II, Section 10-209 – Uses in Industrial Districts – Table 5 regarding the Regulation of Amusement Parks/Outdoor Recreation in the Industrial & General Business Districts Respectively ***(Action on this matter should take place under Section IX of the Agenda)***
2. Public Hearing:
 - 2.1 Public Hearing/Re-use of Doble Reserve Center ***(Action on this matter should take place under Section XII A.1. of the Agenda)***

3. Public Hearing/Second Reading of Proposed Ordinance Amendments:
 - 3.1 Public Hearing/Second Reading of Ordinance amending Chapter 7, Article IX, Section 7.901 – Penalties, Forfeiture and Separability – increasing fines listed under Item A and F of Section 7.901 – Penalties (**Action on this matter should take place under Section IX of the Agenda**)
 - 3.2 Public Hearing/Second Reading of Ordinance amending Chapter 7, Article XI, Section 7.1100 – Speed Limits sub-section B – Speed Limit 20 MPH by the addition of Peirce Island Road (**Action on this matter should take place under Section IX of the Agenda**)
 - 3.3 Public Hearing/Second Reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking sub-section A by the addition of Peirce Island Road: both sides of the street from most easterly access of the City pool to the access/egress of the sewer treatment plant (**Action on this matter should take place under Section IX of the Agenda**)
4. Third and Final Reading of Proposed Ordinance Amendments:
 - 4.1 Third and Final Reading Amending Chapter 10, Section 10-102 – Definition: Floor Area Ratio, Section 10-304 (A) Business – Table 10 Dimensional Requirements; and Section 10-304 by the addition of a New (E) and (F) for Central Business A District (CBA). This Ordinance proposes changes to certain dimensional requirements in Central Business A. Those changes include a 40 foot height limitation within 10 feet of a street right of way and the establishment of variable floor area ratios affecting maximum lot coverage requirements (**Action on this matter should take place under Section IX of the Agenda**)

City Manager's Items Which Require Action

1. Public Hearing/Re-Use of Doble Reserve Center
2. Request for Review and Change of Duplicate Street Names

Informational Items

There are no items under this section of the agenda

B. MAYOR MARCHAND

1. Appointment to be Voted:
 - John Leith – Portsmouth Housing Authority
2. *Election Finance Ordinance
3. Establishment of Safe Routes to School Committee
4. *Reports

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

(*Indicates verbal report)

INFORMATIONAL ITEMS

1. Planning Board minutes of February 1, 2007 and February 15, 2007 meetings
2. Conservation Commission minutes of January 10, 2007 meeting
3. Historic District Commission minutes of February 21, 2007 meeting
4. Letter from Peter Peirce Rice regarding the Peirce Trust
5. Thank you letter from Mitch Manin, Temple Israel to City Council

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: March 30, 2007
To: Honorable Mayor Steve Marchand and City Council Members
From: John P. Bohenko, City Manager
Re: City Manager's Comments on April 4, 2007 City Council Agenda

Presentation:

- At Wednesday's City Council meeting, Heather Hurtt, Chair of the Mayor's Committee on Building Re-use is scheduled to make a presentation on the Lafayette School listening session which was held on February 6, 2007. The presentation will summarize input from the public and include a recommendation, which requested the City Council authorize the City Manager to put this matter out for a Request for Proposal (RFP) for the re-use of the property. For background on the Lafayette School, I have attached an excerpt from the public information packet on this surplus building.

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Items Which Require Action Under Other Sections of the Agenda:

1. **Consideration of First Reading of Proposed Ordinance Amendments:**

- 1.1 **First Reading of Ordinance amending Chapter 10, Article II, Section 10-208– Uses in Business Districts – Table 4 and Chapter 10, Article II, Section 10-209 – Uses in Industrial Districts – Table 5 regarding the Regulation of Amusement Parks/Outdoor Recreation in the Industrial and General Business Districts Respectively.** As a result of the March 19th City Council meeting, under Section IX of the agenda, I am bringing back for first reading the ordinance amending Chapter 10, Article II, Section 10-208 – Uses in Business Districts – Table 4 and Chapter 10, Article II, Section 10-209 – Uses in Industrial Districts – Table 5 regarding the regulation of Amusement Parks/Outdoor Recreation in the Industrial and General Business Districts

respectively. As you will recall, on October 23, 2006, the City Council met in a work session with the Planning Board to discuss various land use issues as they relate to the implementation of the City's new Master Plan. As a result of the October 23rd work session with the Planning Board, Assistant Mayor Ferrini requested that City staff provide a zoning ordinance amendment that would have the effect of regulating amusement parks/outdoor recreation within the Industrial & General Business districts. On December 4, 2006, the City Council voted to refer this matter to the Planning Board for a report back. The Planning Board has considered this matter and voted to report back a recommendation to Council to adopt the attached amendment to the Zoning Ordinance. The attached memo from Planning Director David Holden provides further background on this matter. Please note that we need to schedule the public hearing on May 7th because of the timing of this meeting and requirements for advertising.

I would recommend the City Council move to pass first reading of the amended ordinance, as submitted, and hold a public hearing and second reading at the May 7th City Council meeting. Action on this item should take place under Section IX of the Agenda.

2. **Public Hearing:**

- 2.1 **Public Hearing / Re-use of Doble Reserve Center.** On Wednesday evening, there will be a public hearing regarding the aforementioned subject matter. As you may recall the City Council held a work session on the Paul A. Doble Army Reserve Center on February 5, 2007. At that time, information was provided about the BRAC process and the property itself. On Wednesday evening, the public as well as agencies who have submitted proposals will have the opportunity to discuss the re-use of the Doble facility after a brief presentation about the BRAC process and the facility.

As you know, the Doble Army Reserve Center located on Cottage Street was identified for closure by the 2005 Base Realignment and Closure (BRAC) Commission and the property will be vacated by November 2011. In 2006, the City Council voted to designate the City as the entity that would serve as the Local Redevelopment Authority (LRA). The primary role of the LRA is to create a redevelopment plan for the Doble Reserve Center, including conducting a public outreach process to obtain input as to the future use of the property. As part of the BRAC process, the City must prepare a redevelopment plan by June 20, 2007, and hold a public hearing on the plan prior to that date.

Subsequent to the public hearing, staff will develop a draft re-use plan for public comment based on direction from the City Council. The plan will be made available on the City's website and a final public hearing will need to be held prior to submission in June 2007.

Agencies who have expressed interest in the re-use of the Doble property include the following (Copies of the proposals received from agencies expressing interest in the Doble property are attached):

- The Coming Home Collaborative (Consortium of The Housing Partnership, Cross Roads House, United Way of the Greater Seacoast, and the Seacoast YMCA) (Attachment 6)
- Cross Roads House (Attachment 7)
- Portsmouth Housing Authority (Attachment 8)
- Portsmouth Police Department
- NH Disabled American Vets, Piscataqua Chapter (See Attachment 9)

Additional information about the Doble property is attached to this memorandum, including a property information sheet (Attachment 1), vicinity map (Attachment 2), a zoning map (Attachment 3), site plan (Attachment 4), and floor plan (Attachment 5). Information about the BRAC process and Doble property can be found at <http://www.cityofportsmouth.com/community/brac.htm>.

The re-use plan must consider the needs of the homeless per BRAC law and U.S. Housing and Urban Development (HUD), however, the final re-use plan doesn't necessarily need to include a homeless component. More specifically, the re-use plan "must balance in an appropriate manner a portion or all of the needs of the community for economic redevelopment and other development with the needs of the homeless in the community".

Action on this item should take place on the agenda under Section XII A. 1. City Manager's Items Which Require Action.

3. **Public Hearing/Second Reading of Proposed Ordinance Amendments:**

- 3.1 **Public Hearing /Second Reading of Ordinance amending Chapter 7, Article IX, Section 7.901 – Penalties, Forfeitures and Separability.** As a result of the March 19th City Council meeting, under Section VII of the agenda, I am bringing back for public hearing and second reading the attached proposed ordinance amendment to Chapter 7, Article IX, Section 7.901 – PENALTIES, FORFEITURES AND SEPARABILITY of the ordinances of the City of Portsmouth as recommended by the Parking Committee. The proposed amendment shall read as follows (deletions from existing language stricken; additions to existing language **bolded**; remaining language unchanged from existing):

Section 7.901: PENALTIES

- A. Any person violating any of the provisions of this Chapter or any rule or regulation made by the Chief of Police pursuant thereto, except the rules and regulations found in Section 7.105 and except those rules referenced

in paragraph B, C, D, E, F and G of this provision, shall be subject to a fine or not more than ~~\$100~~ **\$300** upon conviction therefore in the Portsmouth District Court.

- F. Notwithstanding any other provision of this Ordinance, the owner or operator of a vehicle unlawfully parked in areas designated as reserved for parking for the walking disabled pursuant to Section 7.1200 shall forfeit to the City of Portsmouth within forty-eight (48) hours of such violation ~~\$100~~ **\$250**. In the event that the payment of the forfeiture is not made within thirty (30) days of the violation, then the forfeiture shall be in the amount of ~~\$150~~ **\$300**. In the event of failure to make such forfeiture, said person shall be subject to a fine of not more than ~~\$150~~ **\$300** upon conviction therefore in the Portsmouth District Court.

I would recommend the City Council move to pass second reading of the ordinance, as submitted, and hold third and final reading at the April 16th meeting. Action on this item should take place under Section IX of the Agenda.

- 3.2 **Public Hearing / Second Reading of Ordinance amending Chapter 7, Article XI, Section 7.1100 - SPEED LIMITS.** As a result of the March 19th City Council meeting, under Section VII of the agenda, I am bringing back for public hearing and second reading the attached proposed ordinance amendment to Chapter 7, Article XI, Section 7.1100 – SPEED LIMITS sub-section B of ordinances of the City of Portsmouth by the addition thereto of the following as recommended by the Traffic & Safety Committee.

Section 7.1100 – Speed Limits

- B Speed Limit: 20 MPH
Peirce Island Road

I would recommend the City Council move to pass second reading of the ordinance, as submitted, and hold third and final reading at the April 16th meeting. Action on this item should take place under Section IX of the Agenda.

- 3.3 **Public Hearing / Second Reading of Ordinance amending Chapter 7, Article III, Section 7.330 - NO PARKING.** As a result of the March 19th City Council meeting, under Section VII of the agenda, I am bringing back for public hearing and second reading the attached proposed ordinance amendment to Chapter 7, Article III, Section 7.330 – NO PARKING sub-section A of ordinances of the City of Portsmouth as recommended by the Traffic & Safety Committee. The proposed amendment shall read as follows (deletions from existing language stricken; additions to existing language **bolded**; remaining language unchanged from existing):

Section 7.330: NO PARKING

A. Parking shall be prohibited at all times in the following described streets and locations:

90. Peirce Island Access Road:

a) northerly side, from a point 270 feet east of the intersection of Marcy Street and Mechanic Street easterly for a distance of 900 feet; and southerly side from a point 364 feet east of the intersection of Marcy Street and Mechanic Street easterly for a distance of 806 feet.

b) **both sides of the street from most easterly access to the City pool to the access/egress of the sewer treatment plant.**

I would recommend the City Council move to pass second reading of the ordinance, as submitted, and hold third and final reading at the April 16th meeting. Action on this item should take place under Section IX of the Agenda.

4. **Third & Final Reading of Proposed Ordinance Amendments:**

4.1 **Third & Final Reading Ordinance Amending Chapter 10, Section 10-102 – Definition: Floor Area Ratio; Section 10-304 (A) Business - Table 10 Dimensional Requirements; and Section 10-304 – New (E) and (F) for Central Business A District (CBA).** As a result of the March 19th City Council, under Section IX of the agenda, I am bringing back for third and final reading the ordinance amending Chapter 10, Section 10-102 – Definition: Floor Area Ratio; Section 10-304 (A) Business – Table 10 Dimensional Requirements; and Section 10-304 – New (E) and (F) for Central Business A District (CBA). As you know, on November 13, 2006, the City Council voted to amend the Zoning Ordinance to pass first reading on a change to maximum building height within the CBA District from a 50-foot maximum to a 40-foot maximum; schedule a public hearing and second reading on the proposed ordinance to the January 8, 2007 Council meeting (note that on January 8th the City Council voted to continue the public hearing on this ordinance); and refer the matter to the Planning Board for a report back.

The Planning Board held a number of work sessions on this matter, including a joint session with the City Council. See the attached memorandum from David Holden, Planning Director. The Planning Board has recommended to the Council as follows:

- With regard to the ordinance that has the effect of changing maximum the building height from 50 feet to 40 feet within the Central Business A District, the Planning Board has recommended the Council take no further action.
- Alternatively, the Planning Board recommends Council adoption of the alternative dimensional regulations within the CBA District, which passed

first reading on February 12, 2007 and is now before the Council for a March 19th public hearing and second reading. These regulations outline alternative design options regarding minimum open space requirements, floor area ratio requirements, and upper-story step-backs within the Central Business A District (please see attached proposed ordinance).

I would recommend the City Council move to pass third and final reading of the aforementioned ordinance amendment as presented. Action on this matter should take place under Section IX of the agenda.

Consent Agenda:

1. **Acceptance of Donation to the New Library Building Fund.** Attached is a copy of a check in the amount of \$250.00 from Jack E. & D. Dianne Chambers donating funds to the New Library Building Fund.

I would recommend that the City Council approve and accept the donation to the New Library Building Fund as listed. Action on this matter should take place under Section X of the Agenda.

City Manager's Items Which Require Action:

1. **Public Hearing / Re-use of Doble Reserve Center.** The public hearing on this matter was held under Section VII of the agenda. *I would recommend the City Council move to authorize the City Manager to draft a re-use plan based on public comment and conduct a final public hearing on this matter at its June 4th City Council meeting.*
2. **Request for Review and Change of Duplicate Street Names.** Attached is a memorandum from Police Chief Michael J. Magnant and Fire Chief Christopher LeClaire, regarding a request to review and change duplicate street names. The memorandum outlines two incidents involving duplicate-sounding names, which has the potential to create liability complications as well as safety issues for the City during an emergency situation. *Therefore, I would recommend the City Council move to refer the aforementioned memorandum to the Planning Board for a report back.*

Informational Items:

- There are no items under this section of the agenda.