

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, OCTOBER 1, 2007 TIME: 6:00PM

- 6:00PM – WORK SESSION WITH PORTSMOUTH HOUSING AUTHORITY RE: RE-USE OF LAFAYETTE SCHOOL

AGENDA

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

MAYOR'S AWARDS

- 1. Portsmouth Listens - Facilitators

PRESENTATIONS

- 1. Neighborhood Committee Update
- 2. Update on Water Treatment Plant Project

V. ACCEPTANCE OF MINUTES – SEPTEMBER 17, 2007

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARINGS

- A. ORDINANCE AMENDING CHAPTER 6, ARTICLE XIII, SECTION 6.1305 – PROHIBITED CONDUCT – VENDOR – VENDING SHALL BE PROHIBITED AFTER MIDNIGHT AND BEFORE 7:00 A.M.
- B. ORDINANCE AMENDING CHAPTER 16 BY THE ADDITION OF A NEW ARTICLE II ENTITLED – REGULATION OF DISCHARGES INTO STORM WATER DRAINAGE SYSTEM
- C. RESOLUTION AUTHORIZING THE BORROWING THROUGH THE STATE REVOLVING FUND (SRF) LOAN PROGRAM, A BOND ISSUE AND/OR NOTES FOR COSTS RELATED TO THE RYE LINE PUMP STATION UPGRADE NOT TO EXCEED ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00)

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant to the Portsmouth Police Honor Guard from the Henry M. Freschette Memorial in the amount of \$1,000.00

- B. Acceptance of Grant to the Portsmouth Police Department from the Bureau of Justice in the amount of \$25,319.00
- C. Acceptance of Donation to the Portsmouth Explorer Post from K. Rollins in the amount of \$60.00
- D. Acceptance of Donation to the Portsmouth Explorer Post from the Wentworth Coolidge Commission, Inc., in the amount of \$50.00

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second reading of Ordinance amending Chapter 6, Article XIII, Section 6.1305 – Prohibited Conduct – Vendor – Vending shall be prohibited after midnight and before 7:00 a.m.
- B. Second reading of Ordinance amending Chapter 16 by the addition of a new Article II entitled – Regulation of Discharges into Storm Water Drainage System
- C. Adoption of Resolution Authorizing the Borrowing Through the State Revolving Fund (SRF) Loan Program, A Bond Issue and/or Notes for Costs Related to the Rye Line Pump Station Upgrade not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) (***Please note: Two-thirds vote required for passage***)

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Barbara Massar, Pro Portsmouth, Inc., requesting permission to hold First Night Portsmouth 2008 on Monday, December 31, 2007 (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Heidi Roy, National Multiple Sclerosis, requesting permission to hold the 2008 MS Walk on Saturday, April 19, 2008 from 10:00 a.m. (***Anticipated action – move to refer to the City Manager with power***)
- C. Acceptance of Donation to the Coalition Legal Fund
 - Town of Lincoln - \$2,000.00

(Anticipated action - move to approve and accept the donation as listed, to be placed in the Coalition Legal Fund)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

There are no items under this section of the agenda

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items which require Action under other sections of the Agenda

1. Public Hearing/Second Reading of Proposed Ordinance Amendments:
 - 1.1 Public Hearing/Second Reading of Ordinance amending Chapter 6, Article XIII, Section 6.1305 – Prohibited Conduct – Vendor – Vending shall be prohibited after midnight and before 7:00 a.m. (**Action on this matter should take place under Section IX of the Agenda**)
 - 1.2 Public Hearing/Second Reading of Ordinance amending Chapter 16 by the addition of a new Article II entitled – Regulation of Discharges into Storm Water Drainage System (**Action on this matter should take place under Section IX of the Agenda**)
2. Public Hearing/Adoption of Resolution:
 - 2.1 Public Hearing/Adoption of Resolution Authorizing the Borrowing Through the State Revolving Fund (SRF) Loan Program, A Bond Issue and/or Notes for Costs Related to the Rye Line Pump Station Upgrade not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) (**Action on this matter should take place under Section IX of the Agenda**)

City Manager's Items Which Require Action

1. Authorization Re: Holiday Parade 2007
2. Report Back Re: Acceptance of Wholey Way as a Public Street
2. Exemption from Shoreland Protection Act Re: Ceres/Bow Streets Improvements

Informational Items

1. Candidates' Night
2. Economic Development Commission Agenda and Minutes
3. Curbside Collection of Rubbish and Recyclables Re: Columbus Day

B. MAYOR MARCHAND

1. Appointments to be Voted:
 - Elias Abelson – Reappointment to Board of Library Trustees
 - John Rice – Appointment to Planning Board
2. Resignation – Stephen Lichtenstein – Citizens Advisory Committee
3. Upcoming Appointment Vacancies for the month of October
 - 1 Member to the Board of Library Trustees
4. *Reports

C. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the September 13, 2007 meeting

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 the August 16, 2007 meetings
2. Conservation Commission minutes of the July 30, 2007 and August 8, 2007 meetings
3. Site Review Technical Advisory Committee minutes of the September 4, 2007 meeting
4. Zoning Board of Adjustment minutes of the August 21, 2007 and August 28, 2007 meetings

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: September 27, 2007

To: Honorable Mayor Steve Marchand and City Council Members

From: John P. Bohenko, City Manager

Re: City Manager's Comments on October 1, 2007 City Council Agenda

6:00 p.m. – Work Session

1. **Work Session with Portsmouth Housing Authority Re: Re-use of Lafayette School.** The City Council will be conducting a work session with the Portsmouth Housing Authority on Monday evening at 6:00 p.m. in the Eileen Dondero Foley Council Chambers, regarding the re-use of the Lafayette School. See attached packet of information regarding this matter.

Presentation:

1. **Neighborhood Committee Update.** On Monday evening at 7:00 p.m., Robin McIntosh will give a Neighborhood Committee update to the City Council.
2. **Update on Water Treatment Plant Project.** City staff will introduce members of the design team of Hazen-Sawyer who will give an update to the City Council regarding the water treatment plant project.

Acceptance of Grants/Donations:

1. **Acceptance of Police Department Grants and Donations.** Attached under Section VIII of the Agenda is a memorandum from John D. Kelley, Chairman of the Portsmouth Police Commissioners, and Michael J. Magnant, Police Chief, requesting that the City Council approve the following grants and donations:
 1. A grant in the amount of \$1,000.00 provided by the Henry M. Freschette Memorial Fund of the New Hampshire Charitable Foundation to the Portsmouth Police Honor Guard.

2. A grant in the amount of \$129,603.00 from the Bureau of Justice Assistance, Office of Justice Programs has been received by Rockingham County for the use of six Rockingham County towns in apportioned amounts; Portsmouth's allocation is \$25,319.00. Rockingham County, through its Board of Commissioners, has agreed to act as the Fiscal Agent. The apportioned amounts and uses of these grant monies are listed in the paperwork accompanying this agenda.
3. A donation in the amount of \$60.00 from K. Rollins in support of the Portsmouth Explorer Post.
4. A donation in the amount of \$50.00 from the Wentworth Coolidge Commission Inc. to the Portsmouth Explorer Post.

The Police Commission is submitting this information pursuant to City Policy Memorandum #94-35 for City Council approval and acceptance.

I would recommend that the City Council approve and accept the grants and donations to the Portsmouth Police Department, as listed. 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/Second Reading of Proposed Ordinance Amendments:

- 1.1 **Public Hearing/Second Reading of Ordinance amending Chapter 6, Article XIII, Section 6.1305 – Prohibited Conduct – Vendor.** As a result of the September 17th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the attached proposed ordinance amending Chapter 6, Article XIII, Section 6.1305 Prohibited Conduct – Vendor – vending shall be prohibited after midnight and before 7:00 a.m. For your information, attached is a copy of a letter from Ruth Nugent, regarding restrictions on night vending as well as a letter sent to vendors regarding this proposed ordinance. Also, attached is a copy of the City's Vendor Ordinance. After discussion with various individuals, the best way to deal with this matter may be to prohibit vending times between midnight and 7:00 a.m.

I would recommend the City Council move to pass second reading and hold a third and final reading at the October 15th City Council meeting. Action on this item should take place under Section IX of the Agenda.

- 1.2 **Public Hearing/Second Reading of Ordinance amending Chapter 16, by the addition of a new Article II, Regulation of Discharges into Storm Water Drainage System.** As a result of the September 17th City Council meeting, under Section VII of the agenda, I am bringing back for public hearing and second reading the attached proposed ordinance amending Chapter 16, Article II, entitled– Regulation of Discharges into Storm Water Drainage System.

As you are aware, the National Pollutant Discharge Elimination System (NPDES) Phase II federal regulation is intended to reduce or eliminate discharges of contaminated water into municipal separate storm sewer systems that empty into local water bodies. The regulation required all Phase II communities, which includes the City of Portsmouth, to obtain a Storm Water Permit, develop a Storm Water Pollution Prevention Plan, and implement “Best Management Practices”.

Significant steps have already been taken to evaluate and respond to the NPDES Phase II regulations. The City, in conjunction with the Seacoast Storm Water Coalition and the NH Department of Environmental Services, created a manual of Standard Operating Procedures (SOPs) focusing on illicit discharge detection and elimination as well as pollution prevention and good housekeeping. Portsmouth’s employees were trained on these SOPs.

Further, the City contracted the services of Edwards & Kelcey to develop a Storm Water Master Plan. The Storm Water Master Plan will assist in prioritizing our efforts as we continue to implement programs and bring about storm water infrastructure improvements.

Task 4 of the Storm Water Master Plan required the contractor to review a draft ordinance prepared by the Legal Department and the Public Works Department titled, “Regulation of Discharges into Storm Water Drainage System”. The ordinance is intended to provide additional protection to local natural resources and facilitate municipal compliance with federal and state environmental laws and regulations. The consultant has stated the proposed ordinance conforms to the requirements. This ordinance should be adopted by year-end to meet regulatory requirements.

City staff will be making a presentation prior to the public hearing.

I would recommend the City Council move to pass second reading and hold a third and final reading at the October 15th City Council meeting. Action on this item should take place under Section IX of the Agenda.

2. **Public Hearing/Adoption of Proposed Resolution:**

- 2.1 **Public Hearing/Adoption of Resolution Authorizing the Borrowing Through the State Revolving Loan Fund (SRF) Loan Program, a Bond Issue and/or Notes for Costs Related to the Rye Line Pump Station Upgrade not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00).** As a result of the September 17th City Council meeting, under Section VII of the agenda, I am bringing back for public hearing and adoption a proposed Resolution Authorizing the Borrowing through the State Revolving Loan Fund (SRF) Loan Program, A Bond Issue and/or Notes for Costs Related to the Rye Line Pump Station Upgrade not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00).

The City of Portsmouth Sewer Division is requesting authorization to participate in the State Revolving Loan Fund (SRF) program for the Rye Line Wastewater Pumping Station and Sewer System Improvements Project. The project has been identified in the Capital Improvement Plan and construction costs are estimated at \$1,500,000.00.

The State Revolving Loan Fund (SRF) program provides low-interest loans to municipalities for water, wastewater, and landfill closures projects. The current SRF interest rate for a twenty-year loan is 3.352%. Our submission of the loan application will secure the City's eligibility for current and future funding, if the project is considered eligible. In addition to this loan, the City is eligible to receive a 30% State Aid Grant on the eligible portions of this project. Based on current eligibility, we believe the entire project is eligible for grant reimbursement, reducing the construction cost to the rate payers by \$450,000.00 for a net cost of \$1.05 million.

The Rye Line Pumping Station is approximately 35 years old. Currently, the station sees wastewater flows beyond its capacity and needs to be upgraded to handle the projected future flows. The 2005 "Analysis of Infiltration and Inflow to the Rye Line Pumping Station," prepared by CMA Engineers, Inc., and the "Analysis of Rye Line Pumping Station and Downstream Sewer Capacity Requirements," prepared by CMA Engineers, Inc., December 2005 strongly recommended the City undertake improvements to the pumping station.

The Rye Line Pumping Station Upgrades will replace pumping equipment, motors and motor drives with new energy efficient equipment, as well as upgrade the electronic controls and emergency generator. In addition to aged equipment, the current pumping station is subject to periodic flooding from the adjacent wetland. This upgrade will raise the pumping station's floor elevation to a height above the flood elevation. Finally, this project will include upgrades to approximately 4,000 feet of leaking sewer pipe which is taking up capacity and contributing to sewerage overflows at the pumping station.

City staff will be making a presentation prior to the public hearing.

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

I would recommend the City Council move to adopt a bonding Resolution not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) for the Rye Line Pumping Station Upgrades as submitted. Action on this item should take place under Section IX of the Agenda.

Consent Agenda:

1. **Acceptance of Donation to the Coalition Legal Fund.** Attached is a copy of a check from the Town of Lincoln for \$2,000.00 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 donation as listed, to be placed in the Coalition Legal Fund. Action on this item should take place under Section X of the Agenda.

City Manager's Items Which Require Action:

1. **Authorization Re: Holiday Parade 2007.** I am seeking your formal authorization to proceed with the 2007 Holiday Parade on Saturday, December 1, 2007, at 6 p.m.

The bands from Portsmouth High School, Dover High School, Somersworth High School, Spaulding High School and Ancient Order of Hibernians have all committed to participate once you formally approve the date and time. These were the five bands that participated in last year's parade. We are contacting additional bands this year, as well.

I am proposing that the theme of this year's holiday parade be "Vintage Christmas in Portsmouth" to coincide with the Vintage Christmas in Portsmouth program sponsored by Strawberry Banke, The Music Hall, Portsmouth Chamber of Commerce, Sheraton and Wentworth by the Sea.

I would like to encourage walking units this year. Any organizations desiring to enter floats will be sent a copy of the new parade safety law, SB187. For your information, attached is a copy of the new law. The Police Department would be responsible for checking each float before it is allowed to participate in the parade that evening.

The parade would be sponsored by the City of Portsmouth, and coordinated by Pat Remick with assistance from the Recreation Department.

I would recommend the City Council move to authorize the City Manager to proceed with the 2007 Holiday Parade on Saturday, December 1, 2007, at 6:00 p.m.

2. **Report Back Re: Acceptance of Wholey Way as a Public Street.** As you will recall, at the July 16th City Council meeting, the Council referred the request for the acceptance of Wholey Way as a public street, to the Planning Board and the Public Works Department for report back to the City Council. Attached is a copy of a memorandum from David Holden Planning Director, indicating that the Planning Board voted at their September 20th meeting to recommend the acceptance of Wholey Way as a public street.

I would recommend the City Council move to accept the Planning Board's recommendation to accept Wholey Way as a public street.

3. **Exemption from Shoreland Protection Act Re: Ceres/Bow Streets Improvements.**

As you know, we are in the process of moving ahead with the permitting and design of the entryway to the Riverwalk. The intent is to improve public access to the waterfront and create an inviting waterfront vista on this City-owned parcel. Proposed improvements include installation of pedestrian scale lighting, seating, landscaping and other aesthetic and infrastructure upgrades. As part of this project, improvements will also be made to the public portion of Ceres Street to include sidewalk, curbing, roadway, drainage and lighting improvements.

As you also know, the Riverwalk entryway improvements on the City owned lot require the relocation of the Poco Diablo outdoor dining deck, which currently sits in the center of the City's waterfront parcel. The dining deck would be relocated to a patio area immediately adjacent to the rear of the Bow Street building at the corner of Ceres Street on private property owned by Anthony DiLorenzo. Poco Diablo proprietor John Golumb and Mr. DiLorenzo have both indicated they are in support of this approach. The lot line changes needed to enable the relocation of the Poco deck were recently approved and the business/property owners are currently in the design and permitting phase.

The restaurant waste containment/disposal issue is the second item to be addressed in order to construct the Riverwalk entryway and various options have been assessed by City staff in consultation with the affected parties. We believe the solution to this matter is to construct an enclosed building with proper ventilation, drainage, and pressure wash capability, which will also be designed to complement the existing streetscape and architecture and eliminate the significant odor and cleanliness issues that have long occurred with the existing compactor containment facility. Very preliminary discussions have taken place with Portsmouth Navigation to locate the compactor building on the corner of their property. However, final agreement is pending review of conceptual plans for the compactor building, which are currently being developed.

A variety of permits are required as we move ahead to develop the Riverwalk entryway. The first regulatory hurdle, and the subject of tonight's City Council item, is the need for an exemption from NH's Shoreland Protection Act. Because the Act requires development to be set back at least fifty (50) feet from state protected shoreline, the City's proposed Riverwalk entryway improvements, as well as the Ceres Street sidewalk/roadway upgrades, would be precluded. Also precluded under the Act would be construction of Poco's outdoor seasonal dining patio and the trash compactor building proposed to be built on Portsmouth Navigation property. However, under the provisions of the Act the Portsmouth City Council may request an exemption to the Shoreland Protection Act. As you will recall, the City recently sought, and was subsequently granted by the State, an exemption for the development of the Martingale property.

The attached memo from City Environmental Planner Peter Britz addresses each of the required criteria in the Shoreland Protection Act and provides figures, which identify the specific area for which a Shoreland Protection Act exemption is sought. As you will see in the attached, we are seeking an exemption for the project improvements proposed on City land, as well as for the related relocation of the Poco deck and the compactor relocation, both of which are on private property.

I would recommend the City Council move to authorize the City Manager to draft, and the Mayor to execute, a letter to the NH Department of Environmental Services requesting an exemption from the Shoreland Protection Act in order to move ahead with the development of the Riverwalk entryway and Ceres Street improvements in accordance with the information presented this evening.

Informational Items:

1. **Candidates' Night.** For your information, Citizens for Voter Education will be conducting Candidates' Nights in the Eileen Dondero Foley Council Chambers as follows:
 - 1) Wednesday, October 17th at 7:00 p.m. to 9:00 p.m. - City Council
 - 2) Wednesday, October 24th at 7:00 p.m. to 9:00 p.m. - School Board, Fire Commission and Police Commission.
2. **Economic Development Commission Agenda & Minutes.** Attached for your information are copies of the Economic Development Commission Agenda for Friday, October 5, 2007 and the minutes for the meetings of September 7 and 21, 2007.
3. **Curbside Collection of Rubbish & Recyclables Re: Columbus Day.** On Monday, October 8th, in recognition of Columbus Day, City Offices will be closed. For your information, attached is a copy of the curbside collection of rubbish and recyclables notice.