

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, OCTOBER 15, 2007 TIME: 7:00PM

- 6:00PM – ANTICIPATED “NON-MEETING” WITH COUNSEL RE: NEGOTIATIONS & LITIGATION – RSA: 91-A:2, I (b-c) AND RSA: 91-A:2, I (c)

## **AGENDA**

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

### **PRESENTATION**

1. Legislative Update – Senator Martha Fuller Clark

### **V. ACCEPTANCE OF MINUTES – OCTOBER 1, 2007**

### **VI. PUBLIC COMMENT SESSION**

### **VII. APPROVAL OF GRANTS/DONATIONS**

- A. Acceptance of Donation to the New Library Fund
  - Jerry Hejtmanek - \$5,000.00 (*Final Installment of \$15,000.00 pledge*)

### **VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

- A. First reading of Resolution Authorizing the Borrowing of up to Seven Hundred and Fifty Thousand Dollars (\$750,000.00) Through the Issue of Bonds, Notes or the Execution of Lease Purchase Agreements for the Acquisition of One Fire Apparatus
- B. Third and final reading of Ordinance amending Chapter 16 by the addition of a new Article II entitled – Regulation of Discharges into Storm Water Drainage System

### **IX. CONSENT AGENDA**

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

- A. Acceptance of Donation to the Coalition Legal Fund
  - Town of Newington - \$2,000.00

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

- B. Letter from Majors Chester & Joy Emmons, The Salvation Army, requesting permission to place the “Christmas Kettles” in Market Square beginning November 19, 2007 through December 24, 2007 (***Anticipated action – move to refer to the City Manager with power***)

## **X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Request to Consider Eco-Municipality Designation Resolution (*Proposed Adoption to be acted on at the November 19<sup>th</sup> City Council meeting*)
- B. Request for the Authority to place temporary Public-Art on City property for *Overnight Art! 2008*
- C. Letter from Joel Carp Re: Creation of Tool Lending Library and Periodic Inspections by State Highway Patrol of the scrap metal trucks enter the Port of New Hampshire
- D. Letter from Barbara Massar, Pro Portsmouth, requesting permission to hold the Tree Lighting Ceremony and Financial Support in the amount of \$1,000.00 for Production Expenses

## **XI. 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 and Resolution:
  - 1.1 First reading of Resolution Authorizing the Borrowing of up to Seven Hundred Fifty Thousand Dollars (\$750,000.00) Through the Issue of Bonds, Notes or the Execution of Lease Purchase Agreements for the Acquisition of One Fire Apparatus (***Action on this matter should take place under Section VIII of the Agenda***)
- 2. Third and Final Reading of Proposed Ordinance Amendment:
  - 2.1 Third and Final 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 VIII of the Agenda***)
- 3. Request for Authority to place temporary Public-Art on City property for *Overnight Art! 2008* (***Action on this matter should take place under Section X of the Agenda***)
- 4. Request to Conduct Proposed First Reading Re: 2007 Omnibus Ordinance Amendments to Chapter 7 (***Action on this matter should take place under Section XI. C. of the Agenda***)

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

1. Request from the Fire Commission for Approval of the Memorandum of Agreement between the Portsmouth Board of Fire Commissioners and Local #1313 IAFF
2. Request for a License Agreement from 82-86 Congress Street, LLC

### **Informational Items**

1. Economic Development Funding Request Policy
2. Quarterly Report on Chamber/City Partnership

### **B. MAYOR MARCHAND**

1. Appointments to be Considered:
  - Lisa DeStefano – Reappointment to the Building Code Board of Appeals
  - Chester Keefe – Reappointment to the Building Code Board of Appeals
  - Jeffrey Landry – Appointment to the Building Code Board of Appeals
  - Carol Lincoln – Appointment to the Board of Library Trustee
  - Carla Marvin – Appointment to the Trees and Public Greenery
2. \*Reports

### **C. COUNCILOR SMITH**

1. Request to Conduct Proposed First Reading Re: 2007 Omnibus Ordinance Amendments to Chapter 7

## **XII. MISCELLANEOUS/UNFINISHED BUSINESS**

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

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

(\*Indicates verbal report)

### **INFORMATIONAL ITEMS**

1. Historic District Commission minutes of the September 5, 2007 meeting

**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 12, 2007  
**To:** Honorable Mayor Steve Marchand and City Council Members  
**From:** John P. Bohenko, City Manager  
**Re:** City Manager's Comments on October 15, 2007 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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***Presentation:***

1. **Legislative Update.** On Monday evening at 7:00 p.m., Senator Martha Fuller Clark will give a Legislative Update.

***Acceptance of Grants/Donations:***

1. **Acceptance of Donation to the New Library Building Fund.** The Portsmouth Public Library Campaign Committee has received a donation from Jerry Hejtmanek in the amount of \$5,000.00 to the New Library Building Fund, which is the final installment of a \$15,000.00 pledge.

*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 VII of the Agenda.*

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

### **1. Consideration of First Reading of Proposed Ordinance Amendments and Resolution:**

- 1.1 **First Reading on a Resolution Authorizing the Borrowing of up to Seven Hundred and Fifty Thousand dollars (\$750,000.00) through the issue of Bonds, Notes or the Execution of Lease Purchase Agreements for the acquisition of one Fire Apparatus.** Attached is a copy of a proposed resolution authorizing the borrowing of up to Seven Hundred and Fifty Thousand dollars (\$750,000.00) through the issue of Bonds, Notes or the Execution of Lease Purchase Agreements for the acquisition of one Fire Apparatus. The Fire Commission is requesting that the City approve the emergency purchase of a new fire apparatus to replace Ladder 5 (see attached letter from Paul Wentworth, Chair, Fire Commission).

For your information, the FY2008-2013 Capital Improvement Plan (CIP) identifies a purchase of a Fire Aerial Ladder Truck in FY10 to replace Ladder 5, a 1996 Central States/HME/RK 109' ladder (see attached CIP page 40). Fire Chief LeClaire has reported that Ladder 5 went out for repairs and was found to be damaged beyond reasonable repair costs and is currently out of service. He has indicated that Ladder 5 will need to be replaced as soon as possible and cannot wait until FY10.

In order to move forward with this purchase and not affect the FY08 budget, the Fire Chief has agreed that the purchase of the heavy rescue pumper unit scheduled in the CIP to be purchased in FY08, can be purchased at a later date, therefore, reserving the appropriation in the FY08 budget for the first payment for financing the new aerial truck.

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 pass first reading and bring back for public hearing and adoption the proposed Resolution, as presented, at the November 19<sup>th</sup> City Council meeting. Action on this item should take place under Section VIII of the Agenda.*

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

- 2.1 **Third and Final 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 October 1st City Council meeting, under Section VIII of the agenda, I am bringing back for third and final 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.

*I would recommend the City Council move to pass third and final reading as submitted. Action on this item should take place under Section VIII of the Agenda.*

3. **Request for the Authority to place temporary Public-Art on City property for *Overnight Art!* 2008.** Attached under Written Communications is a letter from Art-Speak requesting permission to conduct a public-art event, known as *Overnight-Art!* 2008 and to install temporarily public art on City-owned properties.

The number of sites to be used will depend on funding, however, it is anticipated that at least 5 of the requested sites will be used. Artists will be responsible for the installation and removal of artwork, which will remain their personal property. The enclosed letter details the logistics

and process for selecting artists and ensuring appropriate city staff participation to ensure safe and secure installation of the temporary art.

As you may recall, Art-Speak held a very successful *Overnight Art!* event in 2005 which was very well received by the community and contributed to the city's receipt of the Governor's Community Spirit Award and has been the subject of several requests for a repeat event.

*Therefore, I would recommend that the City Council move to permit the installation of temporary public art on the identified city-owned properties and to authorize the City Manager to oversee the Overnight Art! 2008 installation. Action on this matter should take under Section X of the Agenda.*

4. **Request to Conduct Proposed First Reading Re: 2007 Omnibus Ordinance Amendments to Chapter 7.** Attached under Parking Committee Chair Ken Smith's name is a request for the annual Omnibus Ordinance to amend Chapter 7 for various parking changes during calendar year 2007. *Under his name, I am requesting that the City Council authorize the City Manager to bring back first reading on these changes to Chapter 7 at your November 19<sup>th</sup> City Council meeting.*

### ***Consent Agenda:***

1. **Acceptance of Donation to the Coalition Legal Fund.** The Town of Newington has donated \$2,000.00 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 from the Town of Newington in the amount of \$2,000.00 to be placed in the Coalition Legal Fund. Action on this item should take place under Section IX of the Agenda.*

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

1. **Request from the Fire Commission for Approval of the Memorandum of Agreement between the Portsmouth Board of Fire Commissioners and Local #1313 IAFF** Subsequent to the non-meeting with counsel, the Portsmouth Board of Fire Commissioners is requesting that the City Council approve the Memorandum of Agreement between the Portsmouth Board of Fire Commissioners and Local #1313 IAFF. *I would recommend the City Council move to approve the Memorandum of Agreement between The Portsmouth Board of Fire Commissioners and Local #1313 IAFF.*

2. **Request for a License Agreement from 82-86 Congress Street, LLC.** Attached is a copy of a letter and plan from Mark McNabb, Manager for 82-86 Congress, LLC, regarding a request for a License Agreement for 82-86 Congress Street for a copper clad awning over the Chestnut Street entrance. The Planning Board's June 28th approval of this project included a stipulation for a City license for this awning, however, the Planning Director has indicated to me that the permanent nature of the awning was not discussed by the Board. Given the fact that the awning will be a permanent structure extending over City property, the Planning Director and City Attorney advised me that an easement, rather than a license, would be consistent with past practice with regard to such matters. This has been communicated to Mr. McNabb and he does not have concerns with this approach. *Therefore, I would recommend the City Council refer this matter to the Planning Board for a report back.*

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

1. **Economic Development Funding Request Policy.** In July 2007, the Economic Development Commission (EDC) received a request for \$20,000 in UDAG funds to support the operation of Pro Portsmouth. The premise of the request was that Pro Portsmouth is as an organization that creates events which contribute to the vitality of the downtown, fosters volunteerism, supports local artists and brings tourists and residents into the downtown. Specifically, funding was sought for staffing (\$5,000) and program support to Summer in the Street, First Night, and Children's Day (\$15,000).

At the September 7<sup>th</sup> EDC meeting, the EDC reviewed the request and decided that because there are many worthy non-profit organizations in Portsmouth that also create events, it is important to have an EDC policy on funding requests. A subcommittee met and established a policy for the EDC's review and discussion at their October 5, 2007 meeting. The policy was discussed and approved on October 5, 2007 and is attached for your information.

With regard to the Pro Portsmouth request, while the EDC believes Pro Portsmouth is an excellent organization that has brought many residents and visitors to the community to participate in its four core events, Pro Portsmouth's funding request does not fit the criteria outlined in the EDC's recently adopted policy. The EDC feels its mission is not as a funding entity of the city and, in the rare cases where it may provide funding to an organization, it must support the broad based efforts of maintaining a diverse economic base. There was EDC consensus that Pro Portsmouth might consider seeking support from the City Council. (For your information, there is a request for funding by Pro Portsmouth under Section X of the Agenda.)

2. **Quarterly Report on Chamber/City Partnership.** At the October 5, 2007 Economic Development Commission (EDC) meeting, Chamber of Commerce President Doug Bates reported on tourism for the period April 1, 2007 to September 30, 2007. You will recall that the report is part of the City of Portsmouth and Chamber of Commerce partnership for which the council has requested copies of the quarterly reports presented to the EDC. The report is attached for your review.