

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, JUNE 2, 2008 TIME: 6:30PM

- 6:00PM – ANTICIPATED “NON-MEETING” WITH COUNSEL RE: NEGOTIATIONS – RSA: 91-A:2, I (b-c) AND LITIGATION – RSA 91-A:2, I (c)
- 6:30PM – WORK SESSION RE: RE-USE OF 251 BARTLETT STREET (CREEK ATHLETIC CLUB)

## AGENDA

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

### PRESENTATION

1. Portsmouth High School Student Council Endowment Fund

### V. ACCEPTANCE OF MINUTES – MAY 12, 2008 AND MAY 19, 2008

### VI. PUBLIC COMMENT SESSION

### VII. PUBLIC HEARING

- A. RESOLUTION AUTHORIZING BORROWING IN ANTICIPATION OF REVENUES AND TAXES IN THE AMOUNT OF \$16,000,000.00

### VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Household Hazardous Waste Collection Grant - \$4,756.00

### IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Adoption of Budget Resolutions of Fiscal Year July 1, 2008 – June 30, 2009 (FY2009)
  1. Resolution #1 – General Fund Expenditures
  2. Resolution #2 – Municipal Fees
  3. Resolution #3 – Sewer Fund Expenditures
  4. Resolution #4 – Water Fund Expenditures
  5. Resolution #5 – Special Revenues for Necessary Expenditures
  6. Resolution #6 – Investment Policy
- B. First reading of Ordinance amending Chapter 1 by the creation of an Article XVIII entitled Payment by Credit Card Pursuant RSA 80:52-c

- C. Adoption of Resolution Authorizing Borrowing in Anticipation of Revenues and Taxes in the amount of \$16,000,000.00

**X. CONSENT AGENDA**

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

- A. Acceptance of Donation from the Portsmouth Garden Club to the Blue Ribbon Cemetery Committee - \$150.00 (***Anticipation action – move to approve and accept the donation to the Blue Ribbon Cemetery Committee, as listed***)

- B. Acceptance of Donations to Art-Speak for Overnight Art Event
- Vigilant Capital Management (Daniel Mulkern) - \$100.00
  - NH Charitable Foundation - \$500.00

***(Anticipated action – move to approve and accept the donations to Art-Speak for the Overnight Art Event, as listed)***

**XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Letter from Chris Curtis, The Music Hall, requesting permission to hold the Annual Telluride by the Sea Weekend Celebration of Film on September 18, 2008 – September 21, 2008 and the closure of Chestnut Street to Porter Street
- B. Letter from Steve Miller, Conservation Commission Chair, Report Back Re: Establishment of Open Space Committee
- C. Letter from Debbie Golter Re: Property Located at 4 Sagamore Grove Road
- D. Letter from John Dussi, New Adventure Entertainment, LLC, requesting approval of lighting and awnings at 172 Hanover Street
- E. Thank you letter from Catherine Murray Houle Re: Granite Bench at Powder House Park

**XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

**A. CITY MANAGER**

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

1. Adoption of Proposed Budget Resolutions:
- 1.1 Adoption of Budget Resolutions for Fiscal Year July 1, 2008 through June 30, 2009 (FY2009) (***Action on this matter should take place under Section IX of the Agenda***)

2. Consideration of First Reading of Proposed Ordinance Amendment:
  - 2.1 First reading of Ordinance amending Chapter 1 by the creation of an Article XVIII entitled Payment by Credit Card Pursuant RSA 80:52-c (***Action on this matter should take place under Section IX of the Agenda***)
3. Public Hearing/Adoption of Proposed Resolution:
  31. Public Hearing/Adoption of Resolution Authorizing Borrowing in Anticipation of Revenues and Taxes in the Amount of \$16,000,000.00 (***Action on this matter should take place under Section IX of the Agenda***)
4. Conservation Commission Report Back on Establishing an Open Space Committee (***Action on this matter should take place under Section XI of the Agenda***)

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

1. Approval of Extension of Employment Agreement for Dr. Robert J. Lister, Superintendent of Schools
2. Planning Board Report Back Re: Brora LLC License Request to Erect a Sign in a Public Right-of-Way at the Intersection of Market Street and Portsmouth Boulevard
3. Request for Approval of Pole License Agreements #63-0452

**Informational Items**

1. Events Listing

**B. MAYOR FERRINI**

1. Appointment to be Considered:
  - Charles Oxford, Jr. – Appointment to Portsmouth Housing Authority
2. Appointments to be Voted:
  - Ruth Griffin – Reappointment to Portsmouth Housing Authority
  - Cristy Cardoso – Appointment to Mayor's Blue Ribbon Citywide Neighborhood Steering Committee
  - James Melfi – Reappointment to Mayor's Blue Ribbon Citywide Neighborhood Steering Committee
  - William St. Laurent – Reappointment to Mayor's Blue Ribbon Citywide Neighborhood Steering Committee
3. Resignation
  - Albert Charest, Portsmouth Housing Authority
4. \*Reports

**C. COUNCILOR SMITH**

1. Traffic & Safety Committee Action Sheet and Minutes of the May 8, 2008 Meeting
2. Parking Committee Action Sheet and Minutes of the May 8, 2008 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. Conservation Commission minutes of the March 12, 2008 meeting
2. Planning Board minutes of the April 10, 2008 and April 17, 2008 meetings
3. Zoning Board of Adjustment minutes of the April 15, 2008 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:** May 30, 2008  
**To:** Honorable Mayor Thomas G. Ferrini and City Council Members  
**From:** John P. Bohenko, City Manager  
**Re:** City Manager's Comments on June 2, 2008 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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***Work Session:***

6:30 p.m. - **Creek Athletic Club.** As you may recall, Councilor Eric Spear requested a work session on the re-use of 251 Bartlett Street. For your information, I have attached a copy of a memorandum from Councilor Spear along with the Building Re-use Committee's report back on this matter and other background information that they gathered regarding this location. Also, attached is a copy of the existing lease.

***Presentations:***

1. **Portsmouth High School Endowment Fund.** Attached is a copy of a letter regarding the Portsmouth High School Endowment Fund, which is being worked on by the Portsmouth High School Student Council. They would like to give a ten minute presentation to City Council and answer any questions that you may have. No action is required by the City Council.

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

1. **Acceptance of Household Hazardous Waste Collection Grant.** As you are aware, \$38,000 has been committed from the water & sewer enterprise funds for household hazardous waste collection events in the proposed FY09 budget.

Household hazardous waste collection events protect our water supply and reduce the potential of hazardous waste being dumped or inappropriately disposed. In the interest of protecting public health and ensuring household hazardous waste and unwanted household hazardous products are disposed of in an environmentally sound manner the City has been hosting the collection event for more than ten years. Over 150,000 gallons of hazardous waste has been properly disposed of during that time.

In the spirit of being a good neighbor, the City provides the services to residents of Newton and Greenland also. An average of 350 families take advantage of the collection events every year. The expenses are shared between the communities on a prorated basis - per vehicle per community.

A grant in the amount of \$4,756.00 from the Department of Environmental Services (DES) has been applied for and is available to the City to assist in managing the cost of these events. This grant would supplement the City funds proposed in the FY09 budget.

*I would recommend the City Council move to accept and expend a \$4,756.00 DES grant for the purpose of household hazardous waste collection events and authorize the City Manager to execute any documents which may be necessary for this grant contract. Action on this matter should take place under Section VIII of the Agenda.*

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

1. **Adoption of Proposed Budget Resolutions:**
  - 1.1 **Adoption of Budget Resolutions for Fiscal Year July 1, 2008 through June 30, 2009 (FY2009).** For your review and action there are six proposed Resolutions relative to the annual budget adoption process attached under Section IX of the Agenda.

**Resolution No. 1 - General Fund Expenditures.** In this Resolution, the proposed appropriations for the Municipal, Police, Fire and School Departments as well as non-operating appropriations are listed separately. This year because of collective bargaining, we have also listed a line item in the amount of \$1,000,000.00 for this purpose. As a result of the various work sessions with departments and the City Council, the original budget request was reduced by \$734,122.00 and further there was an increase of revenues of \$150,000.00 as a result of the delay of the parking meter replacement program in the parking special revenue fund. Total adjustment to the budget therefore was \$884,122.00. This resulted in an expenditure increase of 3.2% and a tax rate of \$16.98, a \$.64

increase or 3.9% over FY08. Therefore, the FY09 budget both operating and non-operating would be \$82,434,238.00 or a 3.2% over FY08.

**Resolution No. 2** adopts Municipal Fees that have been recommended by the Fee Committee. The total revenue generated from these fees is estimated at \$872,000 or 1% of the total FY09 General Fund Revenues.

**Resolution No. 3** set the expenditure levels and user rates for the Sewer fund. The adoption of this resolution includes a two step, inclining block rate structure. This means the first 10 units (1 unit equals 100 cubic feet or 748 gallons) of sewer usage per month will be charged at \$5.00 per unit, all consumption over 10 units per month will be charged at \$5.50 per unit. This increase translates to an approximate annual increase of \$13.20 to the average residential user or about \$1.10 per month. Eighty percent (80%) of all residential customers fall in the 10 units or less tier.

**Resolution No. 4** set the expenditure levels and user rates for the Water fund. Similar to Sewer, the adoption of this resolution will include a two step, inclining block rate structure. The first 10 units (1 unit equals 100 cubic feet or 748 gallons) of water consumed per month will be charged at \$2.40 per unit, all consumption over 10 units per month will be charged at \$2.85 per unit. This increase translates to an approximate annual increase of \$60.00 to the average residential user or about \$5.00 per month. Eighty percent (80%) of all residential customers fall in the 10 units or less tier.

**Resolution No. 5** allows for the expenditure of Special Revenues and Designated Fund Balances. This allows the City to expend from designated fund balances, donations and Federal and State Grants as they are accepted and received.

**Resolution No. 6** deals with the adoption of an annual investment policy. State law requires the annual adoption of such a policy by every city and town.

*(Suggested motions:*

- 1) *Move to adopt Resolution #1- General Fund Expenditures.*
- 2) *Move to adopt Resolution #2- Municipal Fees.*
- 3) *Move to adopt Resolution #3- Sewer Fund Expenditures.*
- 4) *Move to adopt Resolution #4- Water Fund Expenditures.*
- 5) *Move to adopt Resolution#5- Special Revenues for Necessary Expenditures.*
- 6) *Move to adopt Resolution #6 - Investment Policy.*

*Actions on Resolutions 1 thru 6 should take place under Section IX of the Agenda.)*

2. **Consideration of First Reading of Proposed Ordinance Amendments and Resolutions:**

2.1 **First Reading of Ordinance amending Chapter 1, by the creation of an Article XVIII entitled – Payment by Credit Card Pursuant to RSA 80:52-c.**

As a result of the May 19<sup>th</sup> City Council meeting, under Section IX of the Agenda, I am bringing back for first reading the attached proposed Payment by Credit Card Ordinance. As you may recall during a budget work session, the Finance Director indicated that she would like to commence a pilot program to utilize credit cards for the payment of water and sewer bills. If this pilot program is successful, we would like to expand payment of parking fines and other city related payments. In order to accept credit cards, state statute RSA 80-52-c requires the following:

“The legislative body, by ordinance adopted in accordance with RSA-39, may authorize the municipality’s treasurer or other appropriate municipal official to accept payment of local taxes, charges generated by the sale of utility services, or other fees by use of a credit card. Any municipality adopting such an ordinance may add to the amount due, in addition to any penalties and interest payable, a service charge for the acceptance of the card. The municipality, at the time of billing shall disclose the amount of the service charge.”

*I would recommend that the City Council move to pass first reading and hold a public hearing and second reading at the June 16<sup>th</sup> City Council meeting on the proposed ordinance that would authorize these credit card payments in accordance with state law.*

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

3.1 **Public Hearing/Adoption of Proposed Resolution Authorizing Borrowing in Anticipation of Revenues and Taxes in the Amount of \$16,000,000.**

As a result of the May 19<sup>th</sup> City Council meeting, under Section VII of the Agenda, I am bringing back for a public hearing and adoption the attached proposed Resolution for FY09 authorizing borrowing in anticipation of taxes. As you are aware, by state law, the City bills for property taxes twice a year in arrears. For example, the first half tax bill in FY08 will be issued in October and is not due until December 1, 2008 even though our fiscal year starts on July 1, 2008. Similarly, the second half bill is not due until June 1, 2009.

Because property taxes constitute our single largest source of revenue, this lag in billing may cause a temporary cash flow problem for us in both the beginning and the middle of the fiscal year. If necessary, this resolution would allow us to borrow money on a short-term basis until the property taxes come in. The attached Resolution requires two readings of the City Council and Public Hearing.

*I would recommend the City Council move to adopt Resolution, as presented. Please note that borrowing resolutions need only two readings and must be adopted by a two-thirds vote of the City Council.*



4. **Conservation Commission Report Back on Establishing an Open Space Committee.** Attached under Written Communications is a copy of a letter from Steve Miller, Chair to the Conservation Commission regarding their report back for an Open Space Committee. As you will recall, the City Council received the attached letter from the Friends of Sagamore Creek and on March 18<sup>th</sup> the Council voted to refer this matter to the City Manager for a report back. Following the City Manager's April 21<sup>st</sup> report back, which included referral to the Conservation Commission, the Council voted to refer this matter to the Commission for a report back. The Conservation Commission discussed this issue at their May 14<sup>th</sup> meeting and Commission Chairman Steve Miller has outlined their recommendations in his attached letter. In short, the Conservation Commission is recommending the formation of an Open Space Committee, which would serve as a subcommittee of the Commission with the goal of developing an open space inventory for the City as a whole to be used as a starting point to better manage and steward the City's open spaces. The Conservation Commission has also provided a recommendation with regard to subcommittee membership. The City Council may also wish to appoint a Council representative(s) and ex-officio staff member(s) and set a timeframe for the subcommittee to complete its work.

*I would recommend the City Council accept the Conservation Commission's report back to establish an Open Space Committee as a subcommittee of the Conservation Commission, including creating the Open Space Committee, setting the Committee's charge and refer to the Mayor to appoint the Committee members. Action on this matter should take place under Section XI of the Agenda.*

### **Consent Agenda:**

1. **Acceptance of Donation to Cemetery Committee.** The Mayor's Blue Ribbon Cemetery Committee has received a donation from the Portsmouth Garden Club in the amount of \$150.00.

*I would recommend the City Council move to approve and accept the donation to the Blue Ribbon Cemetery Committee, as listed. Action on this matter should take place under Section X of the Agenda.*

2. **Acceptance of Donations to Art-Speak for Overnight Art Event.** Art-Speak has received the following donations for the Overnight Art Event:

- Vigilant Capital Management (Daniel Mulkern) for \$100.00
- NH Charitable Foundation for \$500.00

*I would recommend that the City Council approve and accept the donations to Art-Speak for the Overnight Art Event, as listed. Action on this matter should take place under Section X of the Agenda.*

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

1. **Approval of Extension of Employment Agreement for Dr. Robert J. Lister, Superintendent of Schools.** Subsequent, to the non-meeting with counsel, I am requesting that the City Council act on the extension of the employment agreement between the Portsmouth School Board and Dr. Robert J. Lister, Superintendent of Schools.

*Therefore, I would recommend that the City Council approve the extension of the employment agreement to expire on June 30, 2009 with Dr. Robert J. Lister, Superintendent of Schools.*

2. **Report Back Re: Brora, LLC License Request to Erect a Sign within a Public Right-of-Way.** Attached is a memorandum from Planning Director David Holden, which provides a report back to the City Council from the Planning Board regarding Brora, LLC's license request to erect a sign in a public right-of-way.

*I would recommend the City Council accept the Planning Board's report back regarding this matter and authorize the City Manager to negotiate and enter into a revocable License Agreement with Brora, LLC for the purpose of erecting a sign in the public right-of-way, which is in conformance with the recommendations described in the Planning Board's report back regarding this matter.*

3. **Request for Approval of Pole License Agreement #63-0452.** The City Public Works Department has reviewed pole location information provided by PSNH for Petition and Pole License Agreement #63-0452. This request is to license two poles on Lincoln Avenue. The new pole (84/28) was installed to act as a support pole for the power line that travels along the south side of Lincoln Avenue. This new support pole will allow the existing guy wire to be removed from a large tree. The second pole (84/27) was an existing unlicensed pole and PSNH is requesting a license at this time. These poles pose no impact to existing infrastructure and the Public Works Department recommends approval of this license. Attached are photographs of the existing poles.

*I would recommend the City Council approve the request from PSNH for Pole License Agreement #63-0452 as recommended by the Public Works 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 May 19, 2008.