

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, AUGUST 4, 2008 TIME: 7:00PM

AGENDA

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

ACCEPTANCE OF RESIGNATIONS

- 1. City Councilor Edward Raynolds
- 2. Planning Board Member Jerry Hejtmanek

OATH OF OFFICE

- 1. Jerry Hejtmanek – City Councilor

V. ACCEPTANCE OF MINUTES – JULY 21, 2008

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 7, ARTICLE VII, SECTION 7.702 – TRUCK TRAFFIC PROHIBITED – MAPLEWOOD AVENUE: FROM CENTRAL AVENUE TO WOODBURY AVENUE

VIII. APPROVAL OF GRANTS/DONATIONS

(There are no items under this section of the agenda this evening)

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance amending Chapter 7, Article XI, Section 7.1100 – Speed Limits sub-section B – 20 MPH – Leavitt Avenue, McClintock Street, Moffat Street, Swett Avenue and Woodworth Avenue
- B. Second reading of Ordinance amending Chapter 7, Article VII, Section 7.702 – Truck Traffic Prohibited – Maplewood Avenue: from Central Avenue to Woodbury Avenue

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Anonymous Donation to the Blue Ribbon Cemetery Committee in the amount of \$145.00 ***(Anticipated action – move to approve and accept the donation to Blue Ribbon Cemetery Committee, as listed)***
- B. Letter from Julie Slayton Frank, South Church, requesting renewal of Dumpster License Agreement for Church Street ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Dawn Burnett, PNF Realty, Inc., requesting renewal of Dumpster License Agreements for Peter Floros and the State Street Saloon for Church Street ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from Sister Mary Agnes, St. Charles Children’s Home, requesting permission to hold the annual St. Charles Children’s Home 5k Road Race on Monday, September 1, 2008 at 9:00 a.m. ***(Anticipated action – move to refer to the City Manager with power)***

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Michael Capalare requesting that the City find a way to honor John F. Kennedy’s name again
- B. Petition from patrons of the Portsmouth Farmers’ Market requesting the ban on legally processed local NH chicken sales be lifted
- C. Letter from Jay Somers, Comcast, regarding Preparing for the Broadcast Digital Television (DTV) Transition
- D. Letter from Peter Egelston, The Portsmouth Brewery, requesting permission to use Vaughan Mall to hold the Saint Baldrick’s Celebration fundraiser for children’s cancer research on Sunday, September 28, 2008 from 12:00 p.m. – 4:00 p.m.
- E. Letter from David Caswell, Portsmouth Sign Company, requesting permission on behalf of Optima Bank and Trust to hang a sign over the City sidewalk
- F. Letter from Geoffrey O’Hara, U.S. Chamber of Commerce, requesting permission to park a VoteForBusiness bus on Wednesday, August 20, 2008 at the Vaughan Mall in the Worth Lot from 11:00 a.m. – 2:00 p.m.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

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

1. Consideration of First Reading of Proposed Ordinance Amendments and Resolutions:
 - 1.1 First Reading of Proposed Ordinance Amendments to Chapter 7, Article XI, Section 7.1100 – Speed Limits sub-section B – 20 MPH – Leavitt Avenue, McClintock Street, Moffat Street, Swett Avenue and Woodworth Avenue (**Action on this matter should take place under Section IX of the Agenda**)
2. Public Hearing/Second Reading of Proposed Ordinance Amendments and Resolutions:
 - 2.1 Public Hearing/Second Reading of proposed Ordinance to amend Chapter 7, Article VII, Section 7.702 – Truck Traffic Prohibited – Maplewood Avenue (**Action on this matter should take place under Section IX of the Agenda**)
3. Letter from Jay Somers, Comcast, regarding Preparing for the Broadcast Digital Television (DTV) Transition (**Action on this matter should take place under Section XI. C. of the Agenda**)
4. Letter from David Caswell, Portsmouth Sign Company, requesting permission on behalf of Optima Bank and Trust to hang a sign over the City sidewalk (**Action on this matter should take place under Section XI. E. of the Agenda**)

City Manager's Items Which Require Action

1. Proposed Adoption of the Association of Portsmouth Teachers' Contract for the period July 1, 2008 through June 30, 2013
2. Report Back Re: USS New Hampshire Commissioning Celebration
3. Report Back Re: Request for Approval of Dumpster License Agreements for Porter Street
4. Report Back Re: Young Heroes Program Funding Request
5. Polling Hours for September 9, 2008 State Primary Election

Informational Items

1. Events Listing
2. Atlantic Heights Re: New Traffic Circulation Pattern
3. Report Back Re: Timeline for Acquiring the Property to the Left of the Middle School

B. MAYOR FERRINI

1. Appointment to be Considered:
 - Stephen McCarthy – Appointment to Building Code Board of Appeals
2. Appointment to be Voted:
 - Steve Miller – Reappointment to the Conservation Commission
 - Barbara McMillan – Reappointment to the Conservation Commission
 - Allison Tanner – Reappointment to the Conservation Commission
 - Brian Wazlaw – Reappointment to the Conservation Commission
 - Nancy Beach – Reappointment to the Cable Commission
 - Richard Katz – Reappointment to the Historic District Commission
3. Resignation
 - Jonathan Bailey – Safe Routes to School Committee
4. *Reports

C. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the June 12, 2008 and July 10, 2008 meetings
2. Parking Committee Action Sheet and Minutes of the June 12, 2008 meeting

D. COUNCILOR KENNEDY

1. *Recognition of the Fishing Fleet

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

(*Indicates verbal report)

INFORMATIONAL ITEMS

1. Joint Work Session with Planning Board and Conservation Commission minutes of the May 29, 2008 meeting
2. Planning Board minutes of the June 19, 2008 meeting
3. Zoning Board of Adjustment minutes of the June 17, 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: July 31, 2008

To: Honorable Mayor Thomas G. Ferrini and City Council Members

From: John P. Bohenko, City Manager

Re: City Manager's Comments on August 4, 2008 City Council Agenda

Items Which Require Action Under Other Sections of the Agenda:

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

- 1.1 **First Reading of Proposed Ordinance Amendments to Chapter 7, Article XI, Section 7.1100 – SPEED LIMITS sub-section B.** Attached under Section IX of the Agenda is a proposed amendment to Chapter 7, Article XI, Section 7.1100 – SPEED LIMITS sub-section B, for 20 MPH speed limits for Leavitt Avenue, McClintock Street, Moffat Street, Swett Avenue & Woodworth Avenue. This proposed ordinance was recommended by the Traffic & Safety Committee in their May 8, 2008 meeting minutes, which were approved by the City Council at their June 2, 2008 meeting.

I would recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed ordinance, as submitted, at the August 18th City Council meeting. Action on this item should take place under Section IX of the Agenda.

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

- 2.1 **Public Hearing/Second Reading of Proposed Ordinance to amend Chapter 7, Article VII, Section 7.702 – Truck Traffic Prohibited – Maplewood Avenue.** As a result of the July 21st City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the

attached proposed ordinance to amend Chapter 7, Article VII, Section 7.702 –Truck Traffic Prohibited for Maplewood Avenue from Central Avenue to Woodbury Avenue. This ordinance amendment is recommended by the Traffic and Safety Committee as reflected in their meeting minutes of May 8, 2008, which were approved by the City Council at the June 2, 2008 meeting.

I would recommend the City Council move to pass second reading and hold a third and final reading of the proposed ordinance, as submitted, at the August 18th City Council meeting. Action on this item should take place under Section IX of the Agenda.

3. **Letter from Jay Somers, Comcast Re: Preparing for the Broadcast Digital Television Transition.** Attached under written communications is a letter from Jay Somers, Senior Manager of Government and Community Relations at Comcast offering to provide informational sessions regarding the transition to broadcast digital television. Also, attached is a memorandum from Assistant City Attorney Suzanne Woodland regarding this matter. The Cable Commission and City staff recommend that we accept Comcast's offer and staff will work with Comcast to schedule the informational sessions.

I would recommend the City Council accept Comcast's offer to provide informational sessions regarding the transition to digital television. Action on this item should take place under Section XI. C. of the Agenda.

4. **Letter from David Caswell of Portsmouth Sign Company Requesting Permission on behalf of Optima Bank & Trust to hang a sign over the City Sidewalk.** Attached is a copy of a letter from David Caswell of Portsmouth Sign Company requesting permission on behalf of Optima Bank & Trust to hang a sign over the City sidewalk.

I would recommend the City Council move to authorize the City Manager to negotiate and execute a license agreement with Optima Bank & Trust to hang a sign over the City sidewalk. Action on this item should take place under Section XI. E. of the Agenda.

Consent Agenda:

1. **Acceptance of Donation to the Blue Ribbon Cemetery Committee.** The Blue Ribbon Cemetery Committee has received an anonymous donation in the amount of \$145.00.

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

City Manager's Items Which Require Action:

1. **Proposed Adoption of the Association of Portsmouth Teachers' Contract for the period July 1, 2008 through June 30, 2013.** As you are aware, the City Council has met on two occasions with the City Labor Negotiator Thomas Flygare and School representatives regarding the proposed teachers' contract. This is a five (5)-year agreement which would expire on June 30, 2013.

For your information and in order to facilitate discussions on this matter, attached please find the following documents:

1. A letter from Thomas Flygare, City Negotiator outlining the salient points of the Proposed Tentative Agreement.
2. The Cost Analysis from the School Department.
3. Teacher Salary Schedules for 2007-2008 and 2008-2009.
4. A Proposed Teachers' Contract showing the insertions and deletions to implement this Agreement if approved.

The cost of this proposal for FY09 represents a 4.1% increase for a total cost of \$667,081.00. The City budgeted \$550,000.00 for negotiations for the School Department. Therefore, if the City Council were to approve this Agreement, we would need to appropriate an additional \$117,081.00. There are two methods to achieve this funding:

1. The City Council could have the School Department absorb the difference within their adopted budget or;
2. The City Council could take the difference out of fund balance at a later date. This would require a public hearing and a 2/3 vote of the City Council.

As you are aware, the proposed Teachers' Contract is on the City's website.

Please note that the vote on the economics does not have to take place on Monday evening but can take place at a future date. *Therefore, if the City Council wishes, the Council may vote on this contract.*

2. **Report Back Re: USS New Hampshire Commissioning Celebration.** At the July 21, 2008 meeting the City Council referred the request from the USS New Hampshire Commissioning Committee to the City Manager for a report back. As you may recall, the USS New Hampshire submarine is scheduled to arrive at the Portsmouth Naval Shipyard on or some time after October 17, 2008 and the Commissioning ceremony is scheduled for Saturday, October 25, 2008.

City staff met last week with Doug Bates and Renee Riedel of the Commissioning Committee, and Michael Warhurst of Prescott Park to discuss the activities proposed by the Commissioning Committee. We will continue to work with the Commissioning Committee as they further develop their proposed activities. A summary of the proposed celebration activities is as follows:

- 1) Event parking requests:
 - a) Request to allow remote viewing of the commissioning from Four Tree Island, Prescott Park.
 - b) Request for permission to park vehicles at Portsmouth High School and the Masonic Temple and to place appropriate signage to direct people to parking lots.
- 2) Request for temporary installation of a Jumbotron viewing screen on Four Tree Island or Prescott Park for remote viewing of the commissioning ceremony.
- 3) Event Banners: The Commissioning Committee has requested permission to hang event banners including sponsors' names on poles in the city. Attached is a copy of a memorandum from City Attorney Sullivan on the topic of banners.
- 4) Request that the City of Portsmouth officially adopt the submarine.
- 5) Request for use of city parks for event fundraising with area non-profits.
- 6) Media correspondence and relations and letter from Mayor in official commissioning program.

I would recommend the City Council move to accept the report back including the City Attorney's recommendation with regard to banners, and refer the aforementioned requests to the City Manager with power.

3. **Report Back Re: Request for Approval of Dumpster License Agreements for Porter Street.** At the City Council meeting of June 16, 2008, the City Council considered Jay McSharry's request for a license to place a dumpster, totes for recyclables and a grease receptacle on Porter Street. At the same meeting, the City Council also received a request from the Salvation Army for a dumpster on Porter Street. The City Council voted to refer the matters for a report back.

The Legal Department and the Department of Public Works have reviewed the proposed locations for the requested receptacles.

- The Director of Public Works believes there is sufficient space within the right-of-way of Porter Street to allow for the receptacles under certain conditions.

- Critical to the allowance of the receptacles is that the receptacles and the area around them remain clean and tidy and that Porter Street remain open and passable at all times.
- The Fire Department has reviewed the proposed locations and receptacles and has no objection.

The proposed locations are as shown on the attached aerial map of Porter Street. Further specification as to the location and configuration of the receptacles are shown on the exhibits attached to the drafts of the revocable licenses for the City Council's consideration.

I would recommend the City Council move to authorize the City Manager to enter into license agreements with Jay McSharry and with the Salvation Army for waste receptacles on Porter Street.

4. **Report Back Re: Young Heroes Program Funding Request.** As you may recall, in April of this year the City Council received a funding request from City Year New Hampshire for its Seacoast Young Heroes Program (please see attached April 14, 2008 letter). On April 21, 2008, the City Council voted to refer this matter to the City Manager for a report back. Since that time, David Moore, Assistant Community Development Director, has met with the Co-Executive Directors of this program and requested additional materials about the funding request.

City Year New Hampshire is requesting the City provide \$25,000.00 to fund the local start up of its Young Heroes Program, which is a community service and leadership development program for 6th, 7th, and 8th graders that operates on Saturdays from January to June each year. To date, City Year has raised \$28,500.00 of the \$144,078.00 needed in FY 2009 to operate the Young Heroes Program in Portsmouth. Additional funding requests from other organizations and individuals are pending.

City Year program information is attached as well as letters of support from School Superintendent Dr. Lister and Middle School Principal John Stokel, a proposed program budget, a list of other funding solicitations and awards, Seacoast Young Heroes Community Council members, other participating communities, and a curriculum overview.

Representatives of City Year are available to answer any questions the Council may have.

If the City Council wishes to proceed with this matter, one funding approach would be for the School Department to fund 50% from their existing budget and the City fund 50% from the prior year contingency account.

5. **Polling Hours for September 9, 2008 State Primary Election.** Attached is a memorandum from the City Clerk, Kelli L. Barnaby, recommending the polling hours for the State Primary Election be set from 8:00 a.m. to 7:00 p.m.

I would recommend the City Council move to set the polling hours from 8:00 a.m. to 7:00 p.m. for the State Primary Election on Tuesday, September 9, 2008.

Informational Items:

1. **Events Listing.** For your information, attached is a copy of the Events Listing updated after the last City Council meeting on July 21, 2008.
2. **Atlantic Heights Re: New Traffic Circulation Pattern.** For your information, enclosed is a copy of a letter to the residents of the Atlantic Heights Neighborhood regarding the new traffic circulation pattern. As you will recall, the City Council adopted an ordinance on March 18, 2008, regarding the new traffic pattern. This City ordinance allowed the City Manager to determine the effective date upon completion of the first phase and report back this date to the City Council and City Clerk so that it would become part of the adoption of the ordinance. The new traffic circulation pattern in Atlantic Heights will take affect on August 4, 2008.
3. **Report Back Re: Timeline for Acquiring the Property to the Left of the Middle School.** Attached is a report back from City Attorney Robert Sullivan regarding the Peirce restriction as it relates to the proposed Middle School renovation. The City Attorney will answer any questions. Unless I hear any objections, the question of whether or not to commence eminent domain will be placed on the August 18th City Council agenda for action.