

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, AUGUST 18, 2008 TIME: 7:00PM

## AGENDA

- 5:45PM – ANITICIPATED “NON-MEETNG” WITH COUNSEL RE: NEGOTIATIONS – RSA 91-A:2, I (b-c)

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

### PRESENTATION

1. Update Re: Middle School – Dr. Mitchell Shuldman, School Board Chair

- V. ACCEPTANCE OF MINUTES – AUGUST 4, 2008

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARING

- A. 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

- 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 III, Section 7.330 – No Parking sub-section A – Parrott Avenue:
  - on the northerly side from 255' easterly of Richards Avenue to a point 338' easterly of Richards Avenue
  - on the southerly side from 310' easterly of Richards Avenue to a point 355' easterly of Richards Avenue
- B. Second 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
- C. Third and final 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. Letter from The Portsmouth Halloween Parade Committee, requesting permission to hold the annual Halloween Parade on Wednesday, October 31, 2008 at 7:00 p.m. ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Deb Weeks, The Green Monkey Restaurant, requesting renewal of Dumpster License located on Church Street for a period of one year ***(Anticipated action – move to approve the annual renewal of the dumpster license agreement for the Green Monkey Restaurant, as submitted)***
- C. Letter from Tom Hall, The Portsmouth Maritime Folk Festival, requesting permission to hold outdoor performances adjacent to 21 Pleasant Street on Sunday, September 28, 2008 ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from Nicole Gregg, New Hampshire Film Festival, requesting permission to use the Connie Bean Center for their Headquarters and Hospitality Suite for the NH Film Festival on October 16, 2008 – October 19, 2008 ***(Anticipated action – move to refer to the City Manager with power)***

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

- A. Letter from Deborah Bouchard-Smith, Scarecrows of the Port Committee, requesting permission to place scarecrows in designated locations throughout the Portsmouth Downtown Area October 17, 2008 – November 2, 2008
- B. Letter from Pawn Nitichan, City Year, requesting permission to hold an Opening Day Ceremony in Market Square on September 26, 2008 at Noon

## 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 III, Section 7.330 – No Parking – Parrott 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 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)***
3. Third and Final Reading of Proposed Ordinance Amendments and Resolutions:
  - 3.1 Third and Final 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)***
4. Dumpster License Renewal ***(Action on this matter should take place under Section X of the Agenda)***

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

1. Report Back Re: Councilor Kennedy's Request Regarding Fishing Fleet Committee
2. Request to Commence Eminent Domain Proceedings Re: Peirce Estate Property (Alumni Field/Middle School)
3. Request for Work Session Re: Update on Riverwalk

### **Informational Items**

1. Events Listing
2. Report Back Re: Sustainability Committee
3. Press Release Re: Discovery of Historic Granite Street Marker

### **B. MAYOR FERRINI**

1. Appointment to be Considered:
  - Anthony Blenkinsop – Appointment to Planning Board
2. Appointment to be Voted:
  - Stephen McCarthy – Appointment to Building Code Board of Appeals
3. Resignation:
  - Brian Gregg – Rockingham Planning Commission
4. \*Reports

### **C. COUNCILOR SMITH**

1. \*USS NH In-kind Support from City of Portsmouth

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

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

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

(\*Indicates verbal report)

**INFORMATIONAL ITEMS**

1. Historic District Commission minutes of the June 11, 2008 work session and July 2, 2008 and July 9, 2008 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:** August 15, 2008  
**To:** Honorable Mayor Thomas G. Ferrini and City Council Members  
**From:** John P. Bohenko, City Manager  
**Re:** City Manager's Comments on August 18, 2008 City Council Agenda

---

*5:45 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.

---

***Presentation:***

1. **Update Re: Middle School from Dr. Mitchell Shuldman, Chair of the School Board.**  
In accordance with the City Council direction, Dr. Mitchell Shuldman, Chairman of the School Board will be in attendance on Monday evening to give an update on the progress of the Middle School. As you may recall, the City Council asked for an update on a monthly basis.

***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 to amend Chapter 7, Article III, Section 7.330 – No Parking – Parrott Avenue.** Attached under Section IX of the Agenda is a copy of a proposed ordinance to amend Chapter 7, Article III, Section 7.330 – No Parking – Parrott Avenue sub-section A. The purpose of this

ordinance is to accommodate a new sidewalk near the library. Traffic & Safety Committee recommended this ordinance at their April 10, 2008 meeting.

*I would recommend the City Council move to pass first reading and hold a public hearing and second reading of the proposed ordinance, as submitted, at the September 15th 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 Amendments to Chapter 7, Article XI, Section 7.1100 – SPEED LIMITS sub-section B.** As a result of the August 4<sup>th</sup> City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the attached 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 second reading and hold a third and final reading of the proposed ordinance, as submitted, at the September 15<sup>th</sup> City Council meeting. Action on this item should take place under Section IX of the Agenda.*

3. **Third and Final Reading of Proposed Ordinance Amendments and Resolutions:**

- 3.1 **Third and Final Reading of Proposed Ordinance to amend Chapter 7, Article VII, Section 7.702 – Truck Traffic Prohibited – Maplewood Avenue.** As a result of the August 4th City Council meeting, under Section IX of the Agenda, I am bringing back for third and final 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 third and final reading of the proposed ordinance, as submitted. Action on this item should take place under Section IX of the Agenda.*

4. **Dumpster License Renewal.** Attached under consent agenda is a request for a dumpster license renewal for the Green Monkey Restaurant, 86 Pleasant Street for a period of one year.

*Therefore, I would recommend the City Council move to approve the annual renewal of the dumpster license agreement for the Green Monkey Restaurant, as submitted. Action on this item should take place under Section X of the Agenda.*

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

1. **Report Back Re: Councilor Kennedy's Request Regarding Fishing Fleet Committee.**  
In discussing this matter with Councilor Esther Kennedy, I would recommend that this be a seven (7) member committee consisting of two (2) City Councilors, two (2) members from the fishing community, one (1) from the Economic Development Commission, one (1) from the general public and the Director of Ports and Harbors or his designee.

The charge of the committee will be for a report back by the second meeting in October with the following:

1. History of the fishing fleet in Portsmouth;
2. Present day fishing fleet activities; and
3. Proposed program for recognition and support of the existing fishing fleet.

It would be the intent of the subcommittee to sunset after the report back in October with the opportunity to continue as needed and if authorized by the Mayor and the City Council.

*I would recommend the City Council move to request that the Mayor appoint a seven (7) member committee consisting of two (2) City Councilors, two (2) members of the Fishing Fleet community, one (1) from the Economic Development Commission, one (1) from the general public and the Director of Ports and Harbors or his designee to a Fishing Fleet Committee, which shall report back to the City Council at its October 20th meeting at which time it will sunset unless reauthorized by the Mayor and City Council.*

2. **Request to Commence Eminent Domain Proceedings Re: Peirce Estate Property (Alumni Field/Middle School).** Attached is a memorandum from the City Attorney's Office regarding the process and likely timeline to acquire rights necessary to expand the Middle School into the adjacent land known as Alumni Field (Peirce Estate property). As indicated by the City Attorney, this acquisition process will likely take approximately six to nine months from the date on which the City Council votes to commence the process. In addition to the memorandum from the City Attorney's Office, I have also attached the following, which is a request of Councilor Spear:

1. "Who manages the schedule for Alumni Field? How many softball games are played there?" (see attached memorandum from Rus Wilson)

2. "What is the acreage of green space on the deed restricted property? That is, without the pavement. If you were to combine the middle school lot and the deed restricted lot, what would the percentage of green space out of the whole combined space be?" (see attached memorandum from Peter Britz)
3. "What is the acreage of the whole deed restricted lot? What is the percentage of that out of the whole combined space?" (see attached memorandum from Peter Britz)

The condemnation process commences with the scheduling of a public hearing to determine the public use and necessity for the acquisition of the property interest. Notice must be provided at least 30 days in advance of the hearing to the Division of Charitable Trusts and any other persons and parties impacted by the eminent domain process. At the hearing, City/School representatives would have to present the case for the public use and necessity for expanding the Middle School. The public would have an opportunity to be heard. Thereafter, at the same meeting, the Council would vote to adopt, or not, a resolution finding that a public necessity and use for the property exists. Although a simple majority is sufficient to commence eminent domain, the Council should be mindful that a 2/3 majority vote will be needed to bond Middle School renovations.

It would be our recommendation to schedule a public hearing to determine the public use and necessity, at the October 6, 2008 City Council meeting, to allow for the appropriate legal work to be completed as well as to achieve the legal notice requirements (30 days are required).

*Therefore, if the City Council wishes to proceed with the eminent domain process they should adopt the following motion:*

- 1) *Authorize the City Manager to commence the eminent domain process for the property that is subject to the Peirce Estate restriction; and,*
  - 2) *Schedule a public hearing to determine the public use and necessity, at the October 6, 2008 City Council meeting.*
3. **Request for Work Session Re: Update on Riverwalk.** The Mayor has requested that the City conduct a work session prior to the regular meeting on September 15<sup>th</sup> to receive an update on the Riverwalk project. As you may recall, we also have a work session on the retirement system, which was requested by Councilor Eric Spear. I would recommend that we start the work session at 6:00 p.m. regarding the retirement system and 6:30 p.m. for an update on the Riverwalk project.

*Therefore, I would recommend the City Council move to establish a work session on Monday, September 15<sup>th</sup> at 6:00 p.m., for the retirement system and 6:30 p.m., for an update on the Riverwalk project.*



## ***Informational Items:***

1. **Events Listing.** For your information, attached is a copy of the Events Listing updated after the last City Council meeting on August 4, 2008.
2. **Report Back Re: Sustainability Committee.** Councilor Spear contacted me and asked that we receive a report back on a regular basis from the Sustainability Committee regarding their activities.

I would recommend the City Council invite the Sustainability Committee to come in at your September 15<sup>th</sup> meeting and make a presentation on their activities over the past year. Also, I would recommend that the Sustainability Committee come in on a quarterly basis to give the City Council updates on their activities.

If I do not hear any objections on behalf of the City Council, I would invite them to the next meeting for a presentation and a report.

3. **Press Release Re: Discovery of Historic Granite Street Marker.** For your information, attached is a copy of a news release regarding the discovery of the historic 1795 octagonal granite post that once marked the corner of Islington and Brewster Streets.