

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, SEPTEMBER 15, 2008 TIME: 6:00PM

## AGENDA

- 5:30PM – ANITICIPATED “NON-MEETNG” WITH COUNSEL RE: PERSONNEL – RSA 91-A II (a)
- 6:00PM – WORK SESSION RE: RETIREMENT SYSTEM RE: FINANCIAL IMPACT
- 6:30PM – WORK SESSION RE: RIVERWALK PROJECT UPDATE

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

### PROCLAMATIONS

1. International Walk to School Day – Safe Routes to School
2. Blue Ocean Society – International Coastal Cleanup

### PRESENTATIONS

1. Sustainability Committee – Tom Rooney, Chair
2. Update on Automated Water Meter System – David Allen, Deputy Public Works Director

- V. ACCEPTANCE OF MINUTES *(There are no minutes on for acceptance this evening)*

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARING

- A. 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 *(Proposed Substitute Ordinance Amendment recommended by City Attorney attached)*

- VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to the Coalition Legal Fund
  - Town of Dublin- \$500.00

- B. Acceptance of Police Department Grant and Donation (Memo dated August 20<sup>th</sup>):
- 1) NH Department of Safety for Critical Infrastructure Protection Grant - \$106,255.00
  - 2) PAL Basketball Program from K. Whelan Donation - \$50.00
- C. Acceptance of Police Department Grants and Donations (Memo dated July 23<sup>rd</sup>):
- 1) NH Department of Justice Enforcing Underage Drinking Law Grant - \$7,500.00
  - 2) Lieutenant Cory MacDonald's participation in Harvard University's "Driving Government Performance" Donation from Mark H. and Gail E. Fisko - \$250.00
  - 3) Boy's PAL Basketball League from Portsmouth Police Relief Association - \$200.00
  - 4) Girl's PAL Basketball League from Portsmouth Police Relief Association - \$200.00
  - 5) PAL Basketball League from Portsmouth Police Patrolmans' Union - \$250.00
  - 6) PAL Basketball League from Portsmouth Crimeline, Inc. - \$250.00
  - 7) Portsmouth Police Explorers from Stephen Keenan - \$350.00
- D. Acceptance of Donations Re: Bench in Memory of James Walden
- Nikki Sgro - \$50.00
  - Nicole A. Gauthier - \$100.00
  - Julie W. Howard - \$100.00
  - Jeannie B. MacKay - \$100.00
  - Cori A. & Robert J. McGrath II - \$150.00
  - David S. & Kerry A. Walden - \$200.00
  - Gove Environmental Svc. - \$500.00
- E. Acceptance of Donation for Four Tree Island
- Salient Surgical Technologies, Inc. - \$100.00
- F. Acceptance of Donation to Cemetery Committee
- Town of Hopkinton - \$50.00

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

- A. Second 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
- (Proposed Substitute Ordinance Amendment recommended by City Attorney attached)*
- B. Third and final 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

## X. CONSENT AGENDA

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

- A. Acceptance of Donation to the Portsmouth Fire Department
- Thomas P. and Ann W. DeSantis - \$25.00

***(Anticipated action – move to approve and accept the donation to the Portsmouth Fire Department, as listed)***

- B. Acceptance of Donations to the New Library Building Fund
- Frank S. and Donna C. Wilson - \$550.00
  - Valerie J. Wilson and Michael J. Liston - \$550.00

***(Anticipated action – move to approve and accept the donations to the New Library Building Fund, as listed)***

- C. Letter from Cynthia Yates-Rybczyk, Alzheimer's Association, requesting permission to hold the annual Memory Walk on Saturday, September 20, 2008 at the Pease Tradeport ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from Jen Schwab, Arthritis Foundation, requesting permission to hold the annual Jingle Bell Run on Saturday, November 22, 2008 at 10:00 a.m. ***(Anticipated action – move to refer to the City Manager with power)***
- E. Letter from Barbara Massar, Pro Portsmouth, Inc, requesting permission to hold First Night Portsmouth 2009 on Wednesday, December 31, 2008 ***(Sample motion – move to refer to the City Manager with power)***

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

- A. Letter from State of New Hampshire House of Representatives requesting House Concurrent Resolution #10 urging communities to conduct Handicap Parking Awareness Days and urging the State of New Hampshire to declare October as Handicap Parking Awareness Month
- B. Letter from State of New Hampshire House of Representatives requesting House Concurrent Resolution #11 urging municipalities to establish Annual Free Tire Collection Day
- C. Letter from Paul LeBlanc requesting permission to set up a Missing Man Table on Saturday, September 20, 2008 at 22 Pleasant Street for POW/MIA Recognition Day
- D. Letter from Dr. Mitchell Shuldman, School Board Chair, requesting \$12,000.00 Re: Superintendent Search
- E. Letter from Dr. Mitchell Shuldman, School Board Chair, Re: Middle School Schedule

- F. Letter from Brian and Lauren Coughlin requesting permission to place a memorial in memory of their son Geoffrey Coughlin within the city
- G. Letter from Doug Bates, Vice Chair, USS New Hampshire Community Commissioning Committee, requesting permission to hold a cannon salute on Four Tree Island at the end of the Commissioning Ceremony
- H. Letter from Bill St. Laurent, President, Association of Portsmouth Taxpayers regarding the Middle School project
- I. Letter from Tiffany Roggenkamp requesting permission to use Peirce Island on October 17, 2008 for a wedding ceremony
- J. Letter from Kori Low to raise funds to place a granite bench in remembrance of Will Berky at the Plains Ballfield

## XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

### A. CITY MANAGER

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

- 1. Public Hearing/Second Reading of Proposed Ordinance Amendments and Resolutions:
  - 1.1 Public Hearing/Second 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)** *(Proposed Substitute Ordinance Amendment recommended by City Attorney attached)*
- 2. Third and Final Reading of Proposed Ordinance Amendments and Resolutions:
  - 2.1 Third and Final 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)**

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

- 1. Request to Establish Public Hearing Re: Cable Franchise Agreement
- 2. Proposed Lease Renewal Re: Greenleaf Recreation Center
- 3. Request to Reactivate Vendor Committee
- 4. Acceptance of Easement from DeSaulnier Steele, LLC. Re: Keefe House, 20 Islington Street
- 5. Polling Hours for Presidential General Election

### **Informational Items**

1. Events Listing
2. Report Back Michael Capalare Re: JFK Naming Recognition
3. Letter Re: Middle School
4. Report Back Re: Prescott Park

### **B. MAYOR FERRINI**

1. \*City Manager's Evaluation
2. Appointment to be Considered:
  - William Gladhill – Reappointment to the Economic Development Commission
3. Appointment to be Voted:
  - Anthony Blenkinsop – Appointment to Planning Board
4. Resignation:
  - Glenn Knoblock – Mayor's Blue Ribbon Cemetery Committee
5. \*Appointments to Fishing Fleet Blue Ribbon Committee
6. \*Reports

### **C. COUNCILOR DWYER**

1. \*Blue Ribbon Committee on Housing Request for 1 Month Extension
2. Report Back from Committee Re: Committee Re-Alignment

### **D. COUNCILOR SMITH**

1. Traffic & Safety Committee Action Sheet and Minutes of the July 10, 2008 meeting
2. Parking Committee Action Sheet and Minutes of the June 12, 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. Zoning Board of Adjustment minutes of the July 15, 2008 meeting
2. Planning Board minutes of the July 17, 2008 meeting
3. Historic District Commission minutes of the August 6, 2008 meeting
4. Site Review Technical Advisory Committee minutes of August 5, 2008 & September 2, 2008

**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 11, 2008  
**To:** Honorable Mayor Thomas G. Ferrini and City Council Members  
**From:** John P. Bohenko, City Manager  
**Re:** City Manager's Comments on September 15, 2008 City Council Agenda

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***5:30 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 Sessions:***

**6:00 p.m.**

1. **Retirement System Re: Financial Impact.** I have invited Terie Norelli, Speaker of the House and Senator Martha Fuller Clark along with the Portsmouth Legislative Delegation to attend a work session with the Council on Monday, September 15, 2008 at 6:00 p.m. The purpose of the work session is to discuss the City's grave concerns regarding Section 33 in House Bill 1645, Chaptered Law 300, relative to the administration of the New Hampshire Retirement System, and its devastating financial impact on Portsmouth.

The area of the legislation which we have concerns with is commonly referred to as the 125% Calculation in Section 33 of this law. Section 33 of Chapter 300 adds unanticipated, mandated costs to employers by requiring that, for any pension amount in excess of 125% of a retiree's base pay, even if it is due to overtime or any other benefits for which the employer has already made contributions on behalf of the employee, the employer must make an additional payment in an amount determined by the actuary to cover all future costs to the retirement system of the amount in excess of 125%. We believe that this "125%" provision will add significant costs to employers.

To give you an idea of the impact of this 125% surcharge, the City of Portsmouth will have at least eight employees retiring in the next nine months (not including the School Department) that will result in a new assessment of **\$1,311,153** for these employees.

Other additional concerns regarding Section 33 include:

- The City would not receive credit for contributions already paid in excess of the base during the employee's career, nor the interest earned on these contributions.
- The budget impact of being billed in one lump sum could climb into the millions annually.
- There is no provision to return funds, if an employee dies, within a short time of retirement.
- This provision directly affects municipal contract negotiations. The City of Portsmouth is reluctant to settle new contracts in light of this pension exposure.

I have attached a copy of information, which I received from the New Hampshire Retirement System, to help facilitate the discussion on this matter. Also, attached is a copy of a letter that was sent to House Speaker Terie Norelli, the Legislative Delegation and Senator Martha Fuller Clark.

2. **Riverwalk Project Update.** On Monday evening at 6:30 p.m., the City Council will meet in a work session regarding an update on the Riverwalk project.

As you know, conceptual plans for the Riverwalk envision a pedestrian walkway that would parallel the Piscataqua River along Bow Street from the City-owned parcel on Ceres Street adjacent to the tug boats to Chapel Street. The Riverwalk would begin on the Ceres Street land owned by the City and travel along the alleyway between the Ferry Landing and the back side of the Bow Street buildings, then transition to a roughly 400-foot long pier-built structure adjacent to the water side of the Bow Street buildings. Also anticipated as part of the project would be streetscape improvements to the public portion of Ceres Street, which is a project included in the City's capital plan.

In order to initiate construction of the Riverwalk project, the focus over the last year has been on a first phase, which is the construction of the Riverwalk entryway – essentially the creation of a waterfront park – on the City-owned parcel on Ceres Street. Improvements on that parcel would include installation of seating, pedestrian scale lighting, landscaping, and other aesthetic and infrastructure upgrades. Opening up this waterfront vista for public access and carrying out these improvements requires relocation of the existing restaurant deck, which sits in the center of the parcel and has been leased to Poco Diablo since 1994.

On the following pages is a status report on efforts to move ahead with this initial phase – the development of a waterfront park on the City-owned Ceres Street parcel – as well as the status of the project with regard to the pier-built portion on and adjacent to privately owned properties.

***ISSUES RELATED TO RIVERWALK' WATERFRONT PARK DEVELOPMENT (CITY-OWNED PARCEL)***

1. Relocation of Poco Deck from Center of City-owned Parcel

The Poco Diablo restaurant deck is currently located in the center of the small (approximately 60 feet x 45 feet) City-owned parcel at the corner of Ceres/Bow Streets. The lease between Poco Diablo and the City for use of the deck area expires November 1, 2008.

A land swap/lot line relocation was completed allowing relocation of the Poco Diablo restaurant deck (at private expense) to private property adjacent to the rear of the Bow Street building at the corner of Ceres Street owned by Anthony DiLorenzo. Mr. DiLorenzo and Poco Diablo proprietor John Golomb both supported this approach. The timeframe and cost for design, permitting and construction of the new restaurant "deck" by private parties is unknown.

2. Waste Storage and Removal (Trash Compactor)

The annual license agreement to utilize City land for the trash compactor located on the City-owned parcel expires 11/30/2008; license agreement signatories are Ferry Landing, Stock Pot, Poco Diablo and Dolphin Striker. Issues of concern with regard to trash storage and removal include:

- Aesthetics, odors and grease/other residues on the pavement near the dumpster in this high pedestrian location.
- Competing uses (trash storage versus public access) on this small (60 feet x 45 feet) waterfront parcel.
- Limited alternative locations for trash storage.

Considerable time and effort has been expended to try and solve the trash storage and removal issue in this area. These efforts have included:

- Meetings between the City's recycling coordinator and Bow Street businesses to assess the waste stream and business owner needs, including recycling options.
- Discussions with Portsmouth Navigation regarding potential relocation of the trash compactor to a corner of their property.
- Development of preliminary building design concepts to house the compactor in a small building with floor drain and power wash capabilities in order to address aesthetic, odor and grease/liquid residue issues.
- Meetings with waste management companies to assess the current compactor unit and alternative units to maximize truck access, best management practices, improved equipment quality, etc.
- An assessment of overhead utility relocation options and costs to the extent this would alleviate compactor truck access and emptying issues. While relocating the overhead utilities provides some gains in terms of compactor access and aesthetics, the costs to do so are substantial and do not really further the development of the Riverwalk project itself.



### 3. ADA Access Requirements

Considerable area is required to construct handicapped accessibility to the waterfront park in order to meet ADA requirements. Specifically, a switchback ramp parallel to Ceres Street would need to be constructed; unfortunately, the ramp would impede truck access to the trash compactor in its current location. In order to accommodate the necessary ADA grades, the nose of the ramp would be up against the front of the compactor in its current location. As a result, this ADA access cannot be accommodated without moving the compactor enclosure building back a significant distance onto Portsmouth Navigation property and, since this would impede Portsmouth Navigation's operations, they are understandably not agreeable to this approach.

#### ***ISSUES RELATED TO THE DEVELOPMENT OF THE PIER BUILT RIVERWALK CORRIDOR (PRIVATE PROPERTY)***

In order to move beyond improvements to the City-owned parcel to construct the pier built portion of the project, easements are needed from six private property owners. Most of the six property owners, but not all, generally support the Riverwalk project in concept and efforts by staff to obtain easements to allow construction of the Riverwalk have been numerous and ongoing for many years. Despite this, efforts to obtain the necessary easements have been unsuccessful. Property owner concerns are as follows:

- There is not a singular design plan that meets the needs and desires of all affected property owners. Efforts to revise the design to satisfy one property owner raise design issues that are unacceptable to one or more other affected property owners.
- Property owners have concerns about the impact of the pier-built portion of the Riverwalk on existing waterfront views for their patrons.
- Property owners currently enjoy the full width of their waterfront parcels for private access. With construction of a public Riverwalk, they understandably wish to maximize the amount of privately controlled square footage as well as linear feet of waterfront usage for private versus public use. This is unfortunately at odds with the public interest given the dictates of the federal grantors that would fund the project.
- While federal funds must be expended for public benefit, a number of property owners seek funding for improvements that are arguably more for private than public benefit.
- Property owners currently enjoy certain docking rights as well as rights of passage over land across the property of others and construction of the Riverwalk has the potential to affect these existing rights.
- A significant number of facilities and utilities compete for space in the narrow service alley behind the Bow Street buildings including HVAC units, vents, steps, stair cases, recycling bins and storage units. While relocation of many of these is needed in order to accommodate safe public passage, feasible alternate locations are not necessarily available.
- There would be (unavoidable) disruptions to existing businesses during construction.

- There is the potential for additional costs to business/property owners created by the Riverwalk project, but not all of these costs are eligible for federal grant funding. For example, some businesses currently serve alcohol to their customers from bars located within their buildings; in order to comply with State Liquor Commission requirements, they would need to construct/reconstruct their bar service areas on the pier-built structure as the Liquor Commission would not allow alcohol to be transported across the public pedestrian way.

***FUNDING ISSUES***

The cost estimate for constructing the Riverwalk is \$2.5 to \$3.0 million. Approximately \$1.7 million is available from the following sources:

<u>Amount</u>	<u>Source</u>	<u>Spend by date</u>
\$993,850	U.S. HUD EDI	April 2010
\$500,000	DOT Transportation Enhancement	December 2010
\$258,000	City-owned parcel lease fees	n.a.

NOTE: An additional \$125,000 has been set aside through the CIP process for improvements to the public portion of Ceres Street.

Of significant concern is the fact that there are time constraints on the expenditure of the federal funds, particularly the \$993,850 from HUD EDI, which must be completely paid out 18 months from now, by April 2010. Construction will be a lengthy process and will need to take place over a minimum of two construction seasons. Construction during the summer season would be extremely limited in order to minimize negative impacts to the businesses in this area. Prior to the initiation of construction final design would need to be completed and that would be followed by the permitting process. The most significant permit needed is a wetlands permit and that permitting process is likely to take 4 to 6 months.

Another issue of significant note is that there is little flexibility in how the \$500,000 in DOT Transportation Enhancement (TE) grant funds can be spent. Eligible projects for DOT’s TE grants include such projects as facilities and safety education for pedestrians, scenic highway programs, and historic preservation of transportation facilities. NHDOT has indicated that their funds cannot be expended on the project unless the entire Rivewalk is constructed such that it provides an enhanced pedestrian corridor paralleling Bow Street.

***RECOMMENDATIONS***

In recognition of grant eligibility requirements and “spend by” dates and the substantial, yet unsuccessful, efforts by staff over the last several years to obtain the easements necessary to carry out this project, I strongly recommend the City take the steps as outlined below.

1. Spend non-federal dollars (approximately \$400,000) to upgrade City-owned lot to include pedestrian scale lighting, seating, resurfacing, landscaping and drainage improvements as well as sidewalk, curbing and street resurfacing on the public portion of Ceres Street. This work to follow removal of Poco Diablo restaurant deck.

2. Relocate trash compactor to property line with Portsmouth Navigation including reconstructing more attractive compactor enclosure and installing power wash and drainage capabilities and landscaping; this work to take place at licensees' expense.
3. Formally request that DOT allow the City to expend their funds for another comparable and grant-eligible project.
4. Formally request that HUD allow the City to expend their funds for another grant eligible project that could be designed, permitted and carried out before the grant termination date (April 2010).
5. Provide the preliminary Riverwalk design plans (deck elevations, pedestrian lighting, surfacing, seating, etc) to each of the Bow Street property owners to be used to guide future, privately-sponsored improvements with the goal of achieving a more cohesive outcome as property owners carry out various upgrades over the years.

Making a decision to take this approach at this point in time will allow sufficient time to identify alternate grant-eligible projects, obtain grantor approval for those projects and carry out the design and permitting processes for the alternate projects. This approach also allows for some public access improvements to the City-owned land through already available local dollars, and does not preclude the possibility of constructing the pier-built portion of the Riverwalk at some point in the future as property owner circumstances and other factors change through time; the City will always have the opportunity to secure grants and other funding sources for such a project.

### ***Presentation:***

1. **Sustainability Committee.** As requested by the City Council on Monday evening, Tom Rooney, Chair of the Sustainability Committee, will be in attendance to give an update as to the Committee's activities and a description of where the Committee would like to go in the future. Attached is a copy of summary of the committee's activities provided by Mr. Rooney, which he will review with the City Council on Monday evening.
2. **Update on Automated Water Meter System.** On Monday evening, I have asked David Allen, Deputy Public Works Director to make a presentation to the City Council in which he will provide an overview on the status of the Automated Meter Reading system project. As you may recall, the project involves the installation of transmitting devices on all of the water meters. Those transmitters will send the meter readings to the billing and operations offices. The first phase of the project is substantially complete. Phase I included approximately 1200 accounts in the downtown and south end areas of the City.

The next phase of the project will involve installing the transmitters and updating water meters in the balance of the 8,000 accounts in the system. The attached map shows areas to be worked on in the upcoming phases of the project.

The system that is being installed is referred to as a mesh network system and is being provided by Datamatic Ltd. Datamatic has subcontracted the meter and transmitter installation to Easton Winwater out of Brockton, Massachusetts. As with the first phase,

this project will require that the contractor gain access to the water meters at each location. All of the installers will have City issued contractor identification badges. City Staff, including the Police Department have met with Datamatic to develop the public notification and scheduling procedures.

Letters will be sent to the customers requesting that they schedule an appointment for the installation. Scheduling can be done either through a phone call or online. The intent is to get 95% of the system installed in each phase before moving onto the next area.

The proposed system will allow the City to collect meter readings automatically on a daily basis through radio and Ethernet connections. Currently, meter readers must physically travel to each meter location to collect a meter reading. The readings are downloaded at Public Works and then electronically transferred to the billing office for the creation of the bill. Under the present system, residential meters are read once every four months, with only the larger commercial accounts read monthly. With the new system all readings will be done monthly. The ability to bill monthly was a recommendation of the rate study.

The new system will also facilitate better accounting of our water production verses consumption. We currently know how much water is put into the system each day, but with meter reads taking place only every four months, it is difficult to get an accurate relationship between production and consumption. The new system will improve our ability to track down unaccounted for water losses.

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

1. **Acceptance of Donation to the Coalition Legal Fund.** Attached is a copy of a check from the Town of Dublin in the amount of \$500.00 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 matter should take place under Section VIII of the Agenda.*

2. **Acceptance of Police Department Grants and Donations (Memo dated August 20, 2008).** Attached under Section VIII of the Agenda is a memorandum, dated August 20, 2008, from Gerald W. Howe, Chairman of the Portsmouth Police Commissioners, and Michael J. Magnant, Police Chief, requesting that the City Council approve the following grant and donation:

- a. A grant award in the amount of \$106,255.00 from the New Hampshire Department of Safety for Critical Infrastructure Protection as stipulated in the award letter.
- b. A donation to the PAL basketball program in the amount of \$50.00 from Ms. K. Whelan.

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 grant and the donation to the Portsmouth Police Department, as listed. Action on this matter should take place under Section VIII of the Agenda.*

3. **Acceptance of Police Department Grants and Donations (Memo dated July 23, 2008).** Attached under Section VIII of the Agenda is a memorandum, dated July 23, 2008, from Gerald W. Howe, Chairman of the Portsmouth Police Commissioners, and Michael J. Magnant, Police Chief, requesting that the City Council approve the following grant and donations:
- a. A grant award in the amount of \$7,500.00 for Enforcing Underage Drinking Laws from the State of New Hampshire Department of Justice.
  - b. A donation in the amount of \$250.00 from Mark H. and Gail E. Fisko for Lt. Corey MacDonald's participation in Harvard University's "Driving Government Performance" school.
  - c. A donation in the amount of \$200.00 for the boy's PAL basketball league from the Portsmouth Police Relief Association.
  - d. A donation in the amount of \$200.00 for the girl's PAL basketball league from the Portsmouth Police Relief Association.
  - e. A donation in the amount of \$250.00 for the PAL basketball league from the Portsmouth Police Patrolmans' Union.
  - f. A donation in the amount of \$250.00 for the PAL basketball league from Portsmouth Crimeline, Inc.
  - g. A donation in the amount of \$350.00 for the Portsmouth Police Explorers from Mr. Stephen Keenan.

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 grant and the donations to the Portsmouth Police Department, as listed. Action on this matter should take place under Section VIII of the Agenda.*

4. **Acceptance of Donations Re: Bench in Memory of James Walden.** Attached is a copy of a letter from Cori & Robert McGrath regarding donations totaling \$1,200.00 to support the purchase and installation of a bench in Market Square with a memorial plaque for James Walden. Mr. and Mrs. McGrath submitted the following checks:
- Nikki Sgro for \$50.00
  - Nicole A. Gauthier for \$100.00
  - Julie W. Howard for \$100.00
  - Jeannie B. MacKay for \$100.00
  - Cori A. & Robert J. McGrath II for \$150.00
  - David S. & Kerry A. Walden for \$200.00
  - Gove Environmental Svc. for \$500.00

*I would recommend that the City Council approve and accept the donations for a bench in memory of James Walden, as listed. Action on this matter should take place under Section VIII of the Agenda.*

5. **Acceptance of Donation for Four Tree Island.** The City has received a donation from Salient Surgical Technologies, Inc. in the amount of \$100.00 for Four Tree Island.

*I would recommend that the City Council approve and accept the donations for Four Tree Island, as listed. Action on this matter should take place under Section VIII of the Agenda*

6. **Acceptance of Donation to Cemetery Committee.** The Mayor's Blue Ribbon Cemetery Committee has received a donation from the Town of Hopkinton in the amount of \$50.00.

*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 VIII of the Agenda.*

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

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

- 1.1. **Public Hearing/Second Reading of proposed Ordinance to amend Chapter 7, Article III, Section 7.330 – No Parking – Parrott Avenue.** As a result of the August 18<sup>th</sup> City Council meeting, attached under Section VII 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 crosswalk near the library. Traffic & Safety Committee recommended this ordinance at their April 10, 2008 meeting.

During staff preparation of the agenda packet for this meeting, it was noticed there were measurement discrepancies in the form of the ordinance which went to first reading. The City Attorney has proposed correcting that situation by the adoption of a motion which will replace the form of the ordinance that went to first reading with a corrected version, which is in this agenda packet under public hearing/second reading.

*I would recommend the City Council move to amend this ordinance by substitution of the ordinance contained in tonight's agenda packet for the form of the ordinance which passed first reading and that the Council pass second reading and hold a third and final reading of the proposed ordinance, as amended at this meeting. Action on this item should take place under Section IX of the Agenda.*

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

- 2.1 **Third and Final Reading of Proposed Ordinance Amendments to Chapter 7, Article XI, Section 7.1100 – SPEED LIMITS sub-section B.** As a result of the August 18<sup>th</sup> City Council meeting, attached under Section IX of the Agenda, I am bringing back for third and final 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 third and final reading of the proposed ordinance, as submitted. Action on this item should take place under Section IX of the Agenda.*

**Consent Agenda:**

1. **Acceptance of Donation to the Portsmouth Fire Department.** The Portsmouth Fire Department has received a donation from Thomas P. and Ann W. DeSantis in the amount of \$25.00.

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

2. **Acceptance of Donations to the New Library Building Fund.** The New Library Capital Campaign Committee has received the following donations for the New Library Building Fund.

- Frank S. Wilson & Donna C. Wilson for \$550.00
- Valerie J. Wilson & Michael J. Liston for \$550.00

*I would recommend that the City Council approve and accept the donations to the New Library Building Fund as listed. Action on this matter should take place under Section X of the Agenda.*

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

1. **Request to Establish Public Hearing Re: Cable Franchise Agreement.** As you may know, the Portsmouth Cable Commission has been negotiating a cable franchise renewal agreement with Comcast for over two years and has reached a tentative agreement with them. At its meeting of September 8, 2008, the Cable Commission voted to request that the City Council schedule a public hearing on the adoption of the proposed franchise agreement and, subsequent to the public hearing, adopt this Agreement.

Reviewing the schedule of upcoming City Council meetings and previously scheduled public hearings, the Cable Commission indicated that October 20, 2008 may be a preferable date for a hearing, with a vote on the proposed Franchise Agreement to occur

at that meeting or the meeting scheduled for November 10, 2008. The Commission is amenable to any schedule adopted by the City Council.

Attached is a memorandum from Suzanne Woodland, Assistant City Attorney, regarding a summary of the negotiation process and the key contractual provisions of the proposed cable franchise renewal agreement with Comcast.

*I would recommend the City Council move to schedule a public hearing at the October 20, 2008 City Council meeting regarding the renewal of the Cable Franchise Agreement with Comcast.*

2. **Proposed Lease Renewal Re: Greenleaf Recreation Center.** As you may know, in 1999, the federal government transferred ownership of the former U.S. Coast Guard maintenance building and 3.5-acre parcel on Greenleaf Avenue to the City of Portsmouth for use as a citywide recreation facility. Subsequently, federally-funded building upgrades and site improvements were carried out in cooperation with the Portsmouth Housing Authority (PHA). Improvements included the creation of indoor and outdoor court space, a skateboard park, walking trail, instructional classroom space, accessible restrooms, new flooring, and repainting, as well as installation of new heating, sprinkler, and security systems. The Greenleaf Recreation Center is staffed by the Recreation Department on a demand-activated basis.

Since 2004, the PHA has leased a small area consisting of approximately 760 square feet, which is used primarily for storage of maintenance equipment. A copy of the proposed lease is attached to this memorandum; Exhibit A shows the area to be leased. In exchange for the use of this space, the City receives \$5,000.00 in rent per year from the Housing Authority. The PHA wishes to renew the lease under the same terms. The City will continue to retain ownership of the property and the lease term would be for three years and expire June 30, 2011.

*I would recommend the City Council move to authorize the City Manager to negotiate and execute a lease agreement between the City and the Portsmouth Housing Authority for the lease of a portion of the Greenleaf Recreation Center.*

3. **Request to Reactivate Vendor Committee.** On August 21, 2008, a meeting was held with City Attorney Robert Sullivan, Health Officer Kim McNamara, City Clerk Kelli Barnaby, Planning Director David Holden, and Zoning Officer Jason Page to discuss issues concerning hawkers and peddlers. In particular, they discussed concerns which have been raised about obstruction of sidewalks, serving of food (particularly at special events such as 4<sup>th</sup> of July fireworks), permissible sale locations for vendors and safety issues relating to accessory equipment such as propane tanks and grills.

The conclusion reached after discussion was that it may be time for a complete rewrite of the City's vendor regulations. Therefore, at the recommendation of the aforementioned staff members I am recommending that the Vendor Committee be reactivated. (See attached Committee list.)

*I would recommend the City Council move to reactivate the Vendor Committee and to work with the City Manager to address the aforementioned issues.*



4. **Acceptance of Easement from DeSaulnier Steele, LLC. Re: Keefe House, 20 Islington Street.** The City of Portsmouth has been engaged in litigation with DeSaulnier Steele, LLC, owner of the Keefe House at 20 Islington Street. The dispute centered on the City's right to continue to utilize a portion of eight (8) parking spaces along the Keefe House at the parking lot adjoining the old public library. Attached is a sketch of the disputed area.

On September 4, 2008, the parties negotiated a settlement agreement, which among other things calls for DeSaulnier Steele to provide an easement to the City for parking purposes. This easement will allow the City to continue to utilize the easement area for parking purposes as long as (1) the City owns 8 Islington Street or 30 Middle Street; and (2) the easement area is used for public parking in accord with the City's usual and customary ordinances and practices.

The Portsmouth Historical Society which presently leases the Old Library is in agreement with this settlement.

*I would recommend the City Council move to authorize the City Manager to accept an easement from DeSaulnier Steele, LLC.*

5. **Polling Hours for Presidential General Election.** Attached is a memorandum from Kelli Barnaby, City Clerk, recommending the polling hours be set from 8:00 a.m. to 8:00 p.m. for the Presidential General Election on November 4, 2008.

*I would recommend the City Council move to set the polling hours from 8:00 a.m. to 8:00 p.m. for the Presidential General Election on November 4, 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 August 18, 2008.
2. **Report Back Michael Capalare Re: JFK Naming Recognition.** For your information, I am working with both the Recreation Director and the Library Director to discuss how we can best commemorate John F. Kennedy, Jr. (JFK), at one of our facilities. One of the ideas is to make the gymnasium at Spinnaker Point the JFK Gymnasium and the other is for the placement of a plaque at the library with the history of the Old Armory of how the JFK Recreation Center was established. Both of these ideas will be worked on by the Recreation Board and the Library Board, and I will advise you to their final recommendation.
3. **Letter Re: Middle School.** Attached for your information is a copy of a letter from residents to the School Board regarding the Middle School renovation.
4. **Report Back Re: Prescott Park.** As you will recall, the City Council asked for a report back regarding the current ownership, management and administration of Prescott Park. Attached is a copy of a memorandum from City Attorney Robert Sullivan regarding this matter. This will serve as my report back.