

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, MARCH 16, 2009 TIME: 6:00PM

## AGENDA

• **6:00PM – WORK SESSION RE: RECREATION, PARKS AND OPEN SPACE BOARD ORDINANCE**

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

### PRESENTATION

- 1. Review of Financial Summary for Month Ending February 28, 2009

**V. ACCEPTANCE OF MINUTES – MARCH 2, 2009**

**VI. PUBLIC COMMENT SESSION**

**VII. PUBLIC HEARING**

- A. CAPITAL IMPROVEMENT PLAN (CIP) FY2010-2015 (*Reconvened from the March 2, 2009 City Council meeting*)

**VIII. APPROVAL OF GRANTS/DONATIONS**

*(There are no items under this section of the Agenda)*

**IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

*(There are no items under this section of the Agenda)*

**X. CONSENT AGENDA**

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

- A. Renewal of Sidewalk Obstruction Licenses with no changes from last year
  - Attrezzi LLC – 1 A-frame sign
  - Bagel Works – 4 tables, 12 chairs and 1 A-frame sign
  - Bellman's Portsmouth – 1 A-frame sign
  - Betty LaBranche Agency – 1 A-frame sign
  - Blue Athletic, Inc. – 1 A-frame sign
  - Breaking New Grounds – 15 tables and 42 chairs
  - Bull Moose Music – 1 A-frame sign
  - Buyer's Brokers of the Seacoast – 1 A-frame sign

- Ceres Bakery – 2 tables and 10 chairs
- Chamber of Commerce – 1 A-frame sign
- Chrisrial & Co. Fine Jewelry – 1 A-frame sign
- Corks & Curds, LLC – 1 A-frame sign
- Dos Amigos Burritos – 1 Bench
- Edible Arrangements – 1 A-frame sign
- Fat Belly's – 1 A-frame sign
- Geno's Coffee Shop – 1 A-frame sign
- Gulliver's Inc. – 1 A-frame sign
- Izzy's Frozen Yogurt – 1 Bench
- Leo Auger Real Estate – 1 A-frame sign
- Lucky 7 Gallery – 1 A-frame sign
- Mainely Gourmet Chocolate Factory – 1 A-frame sign
- Making Faces – 1 A-frame sign
- Me & Ollies Café – 6 tables, 18 chairs and 1 A-frame sign
- Muddy River Smokehouse – 1 A-frame sign
- Paradiza – 1 A-frame sign
- Poco's – 1 Bench and 1 A-frame sign
- Popovers on the Square, LLC – 10 tables, 38 chairs and 1 A-frame sign
- Portsmouth Athenaeum – 1 A-frame sign
- Rosa's Restaurant – 2 A-frame signs
- Serendipity – 2 A-frame signs
- Starbucks Coffee – 4 tables and 8 chairs
- Stonewall Kitchen – 1 A-frame sign
- Subway – 1 A-frame sign
- The Press Room – 1 A-frame sign
- Trillium Fine Jewelry – 1 A-frame sign
- Tugboat Alley – 1 Bench
- Water Monkey – 1 A-frame sign

***(Anticipated action – move to refer to the City Manager with power)***

- B. Letter from Sarah Curtin, Seacoast Suicide Prevention Coalition, requesting permission to hold the 5<sup>th</sup> Out of the Darkness Community Walk on Saturday, September 26, 2009  
***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Joe Barrett in support of funding for the recreation opportunities Portsmouth offers  
***(Anticipated action – move to accept and place the letter on file)***

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

- A. Letter from Traci Anello, Anello's Gluten Free Café, requesting permission to install a projecting sign at 41 Congress Street  
***(Sample motion – move to refer to the Planning Board for report back)***

- B. Letter from Brendan Cooney, The Seacoast Local Festival Steering Committee, requesting permission to hold the 4<sup>th</sup> Annual Seacoast Local Festival on Saturday, June 6, 2009 from 1:00 p.m. – 4:00 p.m. at the Bridge Street parking lot (**Sample motion – move to refer to the City Manager with power**)
- C. Letter from Lin Lin Choy and Dianne Ramey, Red Lotus Tai Chi Qigong, requesting permission to perform a tai chi demonstration in Market Square on Saturday, April 25, 2009 from 10:00 a.m. – 11:30 a.m. in front of the North Church
- D. Letter from Shaun Rafferty recommending a new skateboard facility
- E. Letter from Erik Anderson, Fishing Fleet Blue Ribbon Committee, Re: Requests of Fishing Fleet Committee to the City Council (**Sample motion – move to accept and place the letter on file**)
- F. Letter from Barbara Massar, Pro Portsmouth, requesting the City reduce their debt by 50% (\$17,830.57) for Police details at their First Night 2006 – First Night 2009 events

## 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:
  - 1.1 Public Hearing Re: Proposed Capital Improvement Plan (CIP) FY2010-2015  
(Reconvened from the March 2, 2009 City Council meeting) (**Action on this matter is anticipated to take place this evening**)

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

- 1. Adoption of Capital Improvement Plan FY 2010 – FY 2015
- 2. Proposed Contract with Edward McDonough as Superintendent of Schools
- 3. Workforce Housing Trust
- 4. Trustees of the Trust Fund Proposed Revision to Prescott Park Dock Policy
- 5. Poco Diablo Deck Lease Agreement
- 6. Request to Renew Lease Agreement for Sons of Italy
- 7. Seacoast African American Cultural Center

### **Informational Items**

1. Events Listing

#### **B. MAYOR FERRINI**

1. Report Back Re: 2008 Attendance Records for various Boards & Commissions
2. Appointments to be Voted:
  - Grace Lessner – Appointment to Board of Library Trustees
  - Bill Southworth – Appointment to Cable Television & Communications Commission
  - Norman Patenaude – Reappointment as Alternate to Planning Board
  - Steven Berg – Reappointment to PEDLP Review Committee
  - Laura Montville – Reappointment to PEDLP Review Committee
  - Tara Trafton – Reappointment to PEDLP Review Committee
  - Jean Ward – Appointment to Safe Routes to School – St. Patrick's School Representative
  - Ronald Cypher – Appointment to Traffic & Safety Committee
3. \*Update on Portsmouth Middle School

#### **C. COUNCILOR NOVELLINE CLAYBURGH**

1. Report Back from Fee Study Committee Re: Taxi Rates

#### **D. COUNCILOR SMITH**

1. Parking Committee Action Sheet & Minutes of the February 12, 2009 meeting

#### **E. COUNCILOR KENNEDY**

1. Fishing Fleet Committee Resolution (***Sample motion – move to adopt the attached Fishing Fleet Committee Resolution, as presented.***)
2. \*Request to Extend the Blue Ribbon Fishing Fleet Committee (***Sample motion – move to extend the Fishing Fleet Committee to January 2010 in accordance with the goals outlined in the March 5, 2009 letter from Erik Anderson, Chairman of the Committee. Further, that the Committee shall give an interim report in July 2009 and a final report in January 2010.***)

#### **F. COUNCILOR PANTELAKOS**

1. Private Duty Proposed Change to Ordinance

### **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 February 4, 2009 meeting
2. Planning Board minutes of the December 4, 2008; January 15, 2009; January 29, 2009 and February 5, 2009 meetings and/or work sessions
3. Zoning Board of Adjustment minutes of the October 28, 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:** March 12, 2009

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

**From:** John P. Bohenko, City Manager

**Re:** City Manager's Comments on March 16, 2009 City Council Agenda

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***Work Session:***

6:00 p.m. – **Recreation, Parks and Open Space Board Ordinance.** As requested by the City Council, on Monday evening, the Council will be conducting a work session regarding the [attached Recreation, Parks and Open Space Board Ordinance](#). The public hearing is scheduled for April 6, 2009. As requested, we have invited both the Recreation Board and Peirce Island Committee to attend this work session.

***Presentation:***

1. **Review of Financial Summary for Month Ending February 28, 2009.** As requested by Councilor Eric Spear, Finance Director Judie Belanger will review the [Financial Summary for the month ending February 28, 2009, which is enclosed in the inside cover of your packet.](#)

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

1. **Public Hearing (Reconvened from the March 2, 2009 City Council Meeting):**
  - 1.1 **Public Hearing Re: Proposed Capital Improvement (CIP) FY2010-2015.** As you are aware, at the March 2<sup>nd</sup> City Council meeting, the Council voted to continue the public hearing regarding the proposed Capital Improvement Plan (CIP) FY 2010 through FY 2015.

The City Council is required, in accordance with Section 7.8 of the City Charter, to adopt the Capital Plan subsequent to the Public Hearing and before the City

Manager submits his budget to the City Council. I anticipate that I will be transmitting my proposed FY2010 budget to you on or about April 10, 2009. In accordance with the Charter, you could adopt the CIP no later than your April 6<sup>th</sup> meeting.

I have asked Jon Frederick, Parking Manager, to spend a few minutes reviewing some of the questions that came up at the last meeting regarding the pay and display program.

Please bring your Capital Improvement Plan with you. If you need another copy, please let me know.

Action on this matter is anticipated to take place on Monday evening under the City Manager's Action Items.

*The public hearing on this item should take place under Section VII of the Agenda.*

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

1. **Adoption of Capital Improvement Plan FY 2010 – FY 2015.** *I would recommend the City Council move to adopt the Capital Improvement Plan for FY 2010 – FY 2015 with any amendments voted on by the City Council.*
2. **Proposed Contract with Edward McDonough as Superintendent of Schools.** *Attached is a letter from Attorney Thomas G. Flygare, City Negotiator, outlining the attached proposed contract with Edward McDonough who will commence his duties on July 1<sup>st</sup> as Superintendent of Schools of Portsmouth. Dr. Mitch Shuldman on behalf of the School Board is requesting this contract be approved by the City Council.*

*I would recommend the City Council move to approve the proposed contract for the Superintendent of Schools as recommended.*

3. **Workforce Housing Trust.** As a result of the March 2<sup>nd</sup> City Council meeting, I am bringing back for review and action the Workforce Housing Trust Fund document. As you will recall, on January 26th, the City Council voted to accept the final report and recommendations of the Blue Ribbon Committee on Housing titled "A Road Map to Affordable Housing" dated November 18, 2008. The report contains a series of recommendations and the Council requested a report back on one of the Report's high priority/immediate recommendations, which is the development of a Workforce Housing Trust Fund. *Attached is a copy of the proposed Workforce Housing Trust Fund document.* Please note changes to the Trust Fund document as follows:
  - 1) The third "WHEREAS" clause and the item 2 now contain language which would allow the City Council to adjust its definition of workforce housing from time to time as necessary.

- 2) Item 9 now requires the Trustees to request an advisory opinion from the Planning Board prior to the disposition of any real estate which might come under the control of the Trustees.

*I would recommend the City Council move to approve the Workforce Housing Trust document, as presented.*

4. **Trustees of the Trust Fund Proposed Revision to Prescott Park Dock Policy.** As a result of the March 2<sup>nd</sup> City Council meeting, I am bringing back for your review and action the [attached proposal from the Trustees of the Trust Fund](#) to implement a new Dock Policy for the 2009 Summer Season. The major proposed changes to the policy would be to have a seasonal dock rental in which no more than ten (10) slips would be available for the seasonal rental rate. The primary reason for the seasonal rental provision in their policy would be to raise additional revenue on a consistent basis. That additional revenue is estimated to be approximately \$30,000 per year and would be placed in a capital reserve fund for improvements to the docks.

I have been advised by the City Attorney that in order for the Trustees to proceed with this proposal, that a vote of the City Council on allowing them to implement this policy would be needed.

*I would recommend the City Council move to approve the Trustees of the Trust Fund proposed revision to the Prescott Park Dock Policy, as presented.*

5. **Poco Diablo Deck Lease Agreement.** As you know, Poco Diablo's deck lease expired November 1, 2008. [A final lease agreement for the upcoming 2009 season \(through October 4, 2009\) is attached.](#) After the 2009 season Mr. Golumb plans to relocate his restaurant deck to property owned by DiLorenzo Real Estate LLC adjacent to the rear of the Bow Street building at the corner of Ceres Street.

As you also know, the current plan is to upgrade the City-owned parcel where Poco's deck is currently located to include waterfront seating, pedestrian scale lighting, drainage improvements and resurfacing. City staff has initiated permitting and design work for the improvements to the City's parcel, and Mr. Golumb is carrying out the necessary permitting and design work for his new restaurant deck.

Attached is a letter dated March 6th from Attorney John Bosen to the City Attorney, which seeks a number of revisions to the deck lease that is before the Council for consideration tonight. Specifically, Mr. Golumb is requesting a reduction in the lease amount from \$34,000 to \$14,000. I would suggest that the Council consider reducing the lease amount from \$34,000 to \$24,000, which would mean Mr. Golumb would not pay what was known in the original lease as the \$10,000 benefit payment. With regard to the second item in Attorney Bosen's letter, the City has been, and will continue to, keep Mr. Golumb and other affected property owners informed as the City moves ahead to make upgrades to the adjacent waterfront City-owned property and the public portion of Ceres Street. Regarding Mr. Bosen's third request to allow the possibility of the continued lease



of the City-owned property after October 6, 2009, neither I nor the City staff can recommend this. The City is currently moving ahead now with the design and permitting of improvements on the City parcel and intends to bid this work out and award a contract this summer so that work may begin on the City's project on October 7, 2009. As you know, given the nature of the retail and restaurant establishments in this high pedestrian traffic area, the construction window is very, very short so it is critical we begin work as soon as possible in October in order to complete the City's project in the early Spring of 2010.

*I would recommend the City Council move to approve the attached final lease agreement for the Poco Diablo deck, up to and including, but not after October 5, 2009.*

6. **Request to Renew Lease Agreement for Sons of Italy.** As you are aware, the Sons of Italy has requested the renewal of their Lease Agreement for the property at One Plains Avenue, which I am recommending the City Council approve the renewal of the Lease with an annual lease payment of \$1.00 for a one-year extension effective April 1, 2009 through March 31, 2010. [Attached is a copy of their letter and the Lease](#), which is scheduled to expire on March 31, 2009.

*I would recommend the City Council move to extend the Lease Agreement with the Sons of Italy at One Plains Avenue, for a period of April 1, 2009 through March 31, 2010.*

7. **Seacoast African American Cultural Center.** As are you aware, because of the life safety issues at the Connie Bean Center, the Seacoast African American Cultural Center ("SAACC") needs to find a new location to house its exhibits and office. For the past two months, the Portsmouth Historical Society, which is leasing the old Library, to create the Discover Portsmouth Center has been meeting with representatives from SAACC to determine the feasibility of renting 1,500 square feet of space in the old Library in order to move the SAACC's activities to that location.

The Portsmouth Historical Society is in favor of this move, but would be required to seek rent and other utility payments that would equal approximately \$18,000 a year in order to continue the financial viability of the Discover Portsmouth Center. Both the Historical Society and the SAACC feel that the synergy between the two groups would help increase the attractiveness of this facility as a venue for people to visit.

One of the hurdles for SAACC is that they are not presently paying any rent at the Connie Bean and would immediately have to come up with \$18,000 annually to rent the space at the Discover Portsmouth Center. Because of the untimely transition of the SAACC's activities from the Connie Bean Center to a new location, it was thought some transition aide would be appropriate. I would recommend that the City Council consider assisting this transition with the use of UDAG funds in the following manner:

Year 1: The City of Portsmouth grants to the Portsmouth Historical Society \$12,000 to use as they deem appropriate for utilities and/or necessary upgrades to the old

Library building and that SAACC pay the Portsmouth Historical Society \$6,000. This would result in a total annual rent of \$18,000 rent for the first year;

Year 2: The City of Portsmouth grants \$9,000 to the Historical Society and SAACC pays \$9,000 to the Historical Society;

Year 3: The City grants \$6,000 to the Portsmouth Historical Society and SAACC paying \$12,000 to the Historical Society;

Year 4: The City pays \$3,000 to the Historical Society and the SAACC pays \$15,000 to the Historical Society; and

Year 5: The City makes no grant to the Historical Society and the SAACC pays the full \$18,000 in rent including utilities for the use of space in the old Library building.

*I would recommend the City Council move to authorize the City Manager to bring this back at the April 6<sup>th</sup> meeting for a proposed vote.*

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

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on March 2, 2009. As you can see on the listing, I have highlighted those events that will have two events going on at the same time.