

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, APRIL 20, 2009 TIME: 7:00PM

AGENDA

- 6:15PM – ANTICIPATED “NON-MEETING” 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

- V. ACCEPTANCE OF MINUTES – APRIL 6, 2009

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARING
 - A. ORDINANCE AMENDING CHAPTER 7, ARTICLE II, SECTION 7.213 – FEES AND TERMS FOR PERMITS/LICENSES (TAXICABS)

- 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 Resolution Authorizing a Bond Issue of up to Thirty Eight Million Three Hundred Thousand Dollars (\$38,300,000.00) for School Improvements
 - B. Second reading of Ordinance amending Chapter 7, Article II, Section 7.213 – Fees and Terms for Permits/Licenses (Taxicabs)

- X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

 - A. Letter from Chris Curtis, The Music Hall, requesting permission for 3 separate closings of Chestnut Street this year as follows:
 - Private Event on Saturday, May 16, 2009 – Barricades to be placed at either end of Chestnut Street beginning at 7:00 a.m. on Saturday until noon Sunday
 - New Film Festival on Friday, July 17, 2009 – July 19, 2009 – Barricade to be placed on Chestnut Street beginning at noon on Friday and removed on Monday morning

- Telluride by the Sea Weekend Celebration of Film on Friday, September 18, 2009 through Sunday, September 20, 2009 – Barricades to be placed on either end of Chestnut Street beginning at noon on Friday and removed on Monday morning

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

- B. Letter from Joan Chawziuk, Greater Portsmouth Chamber of Commerce, requesting permission to hang Portsmouth Harbour Trail flags at 24 key sites for the 2009 season
(Anticipated action – move to refer to the City Manager with power)
- C. Renewal of Sidewalk Obstruction Licenses with no changes from last year
- Portsmouth Gas Light – 2 A-frame signs
 - Siren 49 Hair Studio – 1 A-frame sign

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

- D. Letter from Cori Taylor, March of Dimes, requesting permission to hold the March for Babies on Saturday, May 16, 2009 at the Portsmouth Middle School from 9:00 a.m. – 1:00 p.m. ***(Anticipated action – move to refer to the City Manager with power)***

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Andrew Ward regarding recommendations to the skateboard ordinance
- B. Request from Sonja Echt, Edelweiss, requesting permission for a Sidewalk Obstruction License to place 1 A-frame sign and a chair with a mannequin in front of establishment

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 Resolution:
 - 1.1 First Reading of Proposed Bonding Resolution of up to Thirty Eight Million Three Hundred Thousand Dollars (\$38,300,000.00) for School Improvements ***(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 II, Section 7.213 – Fees and Terms for Permits/Licenses (Taxicabs) ***(Action on this matter should take place under Section IX of the Agenda)***

City Manager's Items Which Require Action

1. Proposed City Council Policy #2009-02 Re: Group Parking License Discount
2. Proposed Ordinance to amend Chapter 7, Article III, Section 7.344 – Use of Roller Skates, Coasters and Skateboards
3. Additional Funding Request for the Recreational Study
4. Request for License Agreement Re: 159 State Street
5. Report Back from Planning Board Re: Request for a License at Market Street
6. Request for Approval of Pole License Agreement #63-0468

Informational Items

1. Events Listing
2. News Release Re: Community Development Block Grant Budget Public Hearing

B. MAYOR FERRINI

1. Resignations:
 - John Howe – Traffic & Safety Committee
 - Christina Westfall – Safe Routes to School Committee
- 2 *Reports

C. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the April 9, 2009 meeting
2. Parking Committee Action Sheet and Minutes of the April 9, 2009 meeting

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

(*Indicates verbal report)

INFORMATIONAL ITEMS

1. Conservation Commission minutes of the March 11, 2009 meeting
2. Historic District Commission minutes of the March 4, 2009 meeting
3. Site Review Technical Advisory Committee minutes of the March 3, 2009 and April 7, 2009 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: April 16, 2009
To: Honorable Mayor Thomas G. Ferrini and City Council Members
From: John P. Bohenko, City Manager
Re: City Manager's Comments on April 20, 2009 City Council Agenda

6:15 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.

Items Which Require Action Under Other Sections of the Agenda:

1. Consideration of First Reading of Proposed Resolution:

- 1.1 **First Reading of Proposed Bonding Resolution of up to Thirty-eight Million Three Hundred Thousand Dollars (\$38,300,000) for School Improvements.** In accordance with the Mayor's request, [under Section IX of the Agenda, attached for first reading is a proposed bonding Resolution](#) of up to Thirty-eight Million Three Hundred Thousand Dollars (\$38,300,000) for the design, construction, expansion and renovation of the Portsmouth Middle School. Also, under Section IX of the Agenda, [see attached memorandum from the Mayor](#) regarding this issue. Further, I have [attached a copy of the most updated information](#) from JCJ Architects. Because of the uncertainty of State building aid, the Mayor recommended the public hearing be established after the adoption of the State budget to clear up the issue of State building aid. At the time of the public hearing, there would be a detailed presentation by JCJ Architects and the School Board.

The City Attorney opined that for a bonding resolution first reading requires a simple majority vote and second reading and final passage requires a two-thirds vote in accordance with state law.

Therefore, the Mayor recommends that the City Council move to pass first reading and schedule a public hearing after the adoption of the State budget.

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 II, Section 7.213 – Fees and Terms for Permits/Licenses (Taxicabs).** As a result of the April 6th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the [attached proposed ordinance](#) amendment to Chapter 7, Article II, Section 7.213 – Fees and Terms for Permits/Licenses (Taxicabs). At the March 16th City Council meeting, the Council approved and accepted the Fee Study Committee's Report regarding Taxi Rates.

I would recommend that the City Council move to pass second reading and schedule a third and final reading at the May 4th City Council meeting. Action on this matter should take place under Section IX of the Agenda.

City Manager's Items Which Require Action:

1. **Proposed City Council Policy 2009-02 Re: Group Parking License Discount.** [Attached is a letter from Dana Levenson, Chair of the Economic Development Commission](#) requesting that the City Council enact a modification to the 2006 Group License Policy pertaining to Section 7.402 of the City Ordinance. As you can see from Mr. Levenson's letter, Section 7.402 of the City Ordinance states that the City Council may authorize a separate parking rate for group licenses on a case-by-case basis for requests where a group consists of twenty-five (25) spaces or more. In 2006, the City Council adopted a group license policy for consistency in implementing Section 7.402. The policy was developed by the EDC and predicated on the economic development goal of recruiting corporate offices to the downtown and increasing the number of employees who support other private businesses in the Central Business District. In 2008, the City Council applied the policy in approving the group license discount for Prime, Buchholz & Associates, Inc., an investment consulting firm with corporate headquarters at 25 Chestnut Street in downtown Portsmouth.

In view of the developments recently permitted in the central business district and in the northern tier in particular, the EDC re-examined the group license policy at their April 3rd meeting. The EDC is proposing a modification that would create both a twelve (12) hour and a twenty-four (24) hour weekday parking pass discount (Monday through Friday). A sliding scale creates a higher discount for the more employees a corporation has.

The EDC is recommending that the City Council establish this modification to the Group Parking License Policy and approve it at your April 20th meeting.

I would recommend the City Council move to authorize the approval of City Council Policy 2009-02 Group Parking License Discount.

2. **Proposed Ordinance to amend Chapter 7, Article III, Section 7.344 – Use of Roller Skates, Coasters and Skateboards.** At the City Council meeting of April 6, 2009 the City Council approved the minutes of the Traffic Safety Committee Meeting of March 12, 2009. That approval had the effect of authorizing a number of amendments to the skateboard ordinance which had gone to first reading on January 26, 2009.

[Attached please find an amended ordinance](#), which would implement the Council's actions of the April 6, 2009 meeting.

In brief, Traffic Safety suggested six amendments to the ordinance, four of which have been made. These involve requiring helmets for individuals under the age of 16; requiring reflective gear after sunset; prohibiting conduct which destroys property and expanding the ordinance to cover all non-motorized devices. Two of the Traffic and Safety recommendations were already in the ordinance which has gone to the City Council. The two provisions already in the ordinance have the effect of lifting the ban of skateboards and similar devices outside the downtown and defining the downtown area as Central Business A & B.

I would recommend the City Council move to amend the Ordinance, as presented and to establish a public hearing at the May 4th City Council meeting prior to passing second reading.

3. **Additional Funding Request for the Recreational Study.** As you know, the City issued a Request for Qualifications for a Comprehensive Recreational Needs Study. Qualifications packages were submitted by 21 firms and reviewed by a selection committee comprised of Recreation Board Chairman Carl Diemer, School Board member Kent LaPage, Deputy City Manager Cindy Hayden, Recreation Director Rus Wilson, Public Works Director Steve Parkinson and Assistant Community Development Director David Moore.

The selection committee short-listed five consultant teams for interviews and, based on the qualifications submitted and the interview process, the list was narrowed to 3 firms, which they rank ordered according to their top choice through 3rd choice. In order to insure competitive pricing, those 3 firms were then asked to submit detailed proposals, including a schedule and lump sum fee for the following three tasks:

1. **Inventory and Assessment of Existing Recreation Facilities, Programs and Services:** Review existing conditions of recreational facilities (indoor and outdoor), staffing and programs associated with the Recreation and School Departments, including determining usage of existing facilities, program enrollment, and overall program participation by age, activity and facility.
2. **Public Outreach:** Solicit public input on the type/location of facilities, programs and services desired by the community and recreation users.
3. **Needs Assessment:** Develop a needs assessment report, which outlines future recreational infrastructure (fields and facilities), programming and service requirements.

The Council should be aware that following the completion of these tasks, additional work, at additional cost, would be necessary including the full engineering, design and permitting of any indoor or outdoor recreation facilities that may be identified through the needs assessment.

As you will recall, \$25,000.00 was allocated for this work in the FY 2009-2014 Capital Improvement Plan. The consultant team that was the Selection Committee's top choice submitted a competitive price proposal of \$63,720.00 and the City would like to enter into a contract with that firm to carry out the three tasks listed above. In order to proceed, additional funding in the amount of \$38,890.00 is needed, which is available in prior year capital contingency.

If agreeable to the Council, I would recommend that we proceed as I have outlined above.

I would recommend the City Council move to authorize the use of \$38,890.00 from prior year capital contingency to supplement \$25,000.00 appropriated in the FY 2009 Capital Improvement Plan contract amount for a total of \$63,720.00.

4. **Request for License Agreement Re: 159 State Street.** Careno Construction seeks a license agreement affecting three parking spaces to facilitate the repair of the roof and facade at 159 State Street, 1827 Sheafe House Condominiums. The license agreement would extend from the date of approval for a period of 60 days at a cost of \$60 per day Monday through Saturday. [See attached photograph showing the licensed area.](#) There would be very occasional use of the sidewalk area, with the sidewalk remaining open at all times.

City staff points out that a license agreement already exists at 68 State Street to facilitate construction services at that location. In addition, the City is prepared to undertake extensive sewer and drainage work along State Street. Careno Construction could stage its construction activities from the rear of 159 State Street but advises that work would be facilitated by using the parking spaces out front.

Careno Construction has been in communication with the Department of Public Works and the gas company and has indicated its preparedness to coordinate with the gas company and the Department of Public Works as may be necessary to allow the State Street project to proceed without delay or inconvenience. There are no anticipated travel lane closures.

If approved by the City Council, the license agreement will be prepared and reviewed by the Legal Department and the Public Works Department.

I would recommend the City Council move to authorize the City Manager to negotiate and execute a License Agreement with Careno Construction for purposes of facilitating construction activities at 159 State Street.

5. **Report Back from Planning Board Re: Request for a License at 63 Market Street.**

As you will recall, at the March 2, 2009 City Council meeting, the Council referred the request from Laurel Crawford of Empower Yoga Center, LLC, for the installation of a projecting sign at 63 Market Street, to the Planning Board for report back. [Attached is a copy of a memorandum](#) from David Holden, Planning Director, outlining the recommendation of the Planning Board subject to the following:

- 1) That the request shall be subject to a municipal license and this license shall be approved by the Legal Department as to content and form, it should be revocable by the City and if an encroachment needs to be removed or relocated for any purpose, it will be done at no cost to the City; and,
- 2) That any resulting disturbance of a sidewalk, street or other public infrastructure shall require its restoration at no municipal cost and subject to review and acceptance by the Department of Public Works.

I would recommend the City Council move to accept the recommendation of the Planning Board with the aforementioned stipulations and approve the request of Empower Yoga Center, LLC, to install a projecting sign at 63 Market Street and further authorize the City Manager to execute a License Agreement for this request.

6. **Request for Approval of Pole License Agreement #63-0468.** The Public Works Department has reviewed pole location information provided by PSNH for Petition and Pole License Agreement #63-0468. This request is to license one replacement pole on Dennett Street. The existing pole was determined to be rotten and a new pole was erected. Although PSNH considered this pole to be a “straight replacement” not needing a license, they were unable to verify any previous license and decided to request one at this time. This pole poses no impact to existing City infrastructure and the Public Works Department recommends approval of this license. [Attached is a photograph of the pole.](#)

I would recommend the City Council approve the request from PSNH for Pole License Agreement #63-0468 as recommended by the Public Works Department.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on April 6, 2009. As you can see on the listing, I have highlighted those dates that will have two events going on at the same time.
2. **News Release Re: Community Development Block Grant (CDBG) Budget Public Hearing.** For your information, [attached is a copy of a news release](#), dated April 14, 2009, regarding a public hearing on the FY 2009-2010 Community Development Block Grant (CDBG) Annual Plan and Budget, to be held on Thursday, April 23, 2009 at 7:00 p.m., in Conference Room B, City Hall.