

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, MAY 17, 2010 TIME: 7:00PM

AGENDA

- 6:15PM – ANTICIPATED “NON-MEETING” WITH COUNSEL REGARDING 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. Trustees of the Trust Funds

- V. ACCEPTANCE OF MINUTES – MAY 3, 2010

- VI. PUBLIC COMMENT SESSION

- VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donations to the Coalition Legal Fund

- Town of Hampton - \$1,500.00
- Town of Marlow - \$200.00

(Sample motion – move to approve and accept the donations, as listed, to be placed in the Coalition Legal Fund)

- B. Acceptance of Police Department Grant

- Crime Stoppers Organization for the Citizen Police Academy - \$5,000.00

(Sample motion – move to approve and accept the grant to the Portsmouth Police Department, as listed)

- C. Acceptance of Community Development Block Grant Funds ***(Sample motion – move to accept and expend a Community Development Block Grant (CDBG) in the amount of \$712,605.00 from the U.S. Department of Housing and Urban Development)***

- VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Resolution Authorizing Borrowing in Anticipation of Revenues and Taxes in the amount of \$16,000,000.00

- B. First reading of Ordinance amending Chapter 10, Article IV, Section 10.420 – District Location and Boundaries that the following lots be rezoned from Waterfront Business (WB) to Single Residence B (SRB): Assessors Map 201, Lots 3, 4, 5, 6, 7 and 8 (1-6 Sagamore Grove); and that the Zoning Map be revised accordingly as shown on the attached exhibit titled “Sagamore Grove Waterfront Business District – Proposed Zoning”

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. 2010 Additional Omnibus Sidewalk Obstruction Renewals (See Attached Listing)
(Anticipated Action – move to refer to the City Manager with power)
- B. Acceptance of Donation to the Peirce Island Committee from Michael Callahan - \$50.00
(Anticipated Action – move to accept the donation to the Peirce Island Committee, as presented)

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Richard “Brooksie” Brooks, Central Veterans Council, requesting that the WWI monuments on the corner of Peverly Hill Road and Route 33 be relocated to Langdon Park across from City Hall ***(Sample motion – move to refer to the City Manager for report back)***
- B. Letter from D.J. Phillips requesting to renew the License Agreement for the dumpsters located on Church Street for the Clip Joint Barber Shop and NV Salon ***(Sample motion – move to refer to the City Manager with power)***
- C. Letter from Marie-Helene James, requesting to donate either a bench or a tree [or both] at the Dog Park or Peirce Island in memory of her son Eric James ***(Sample motion – move to refer to the City Manager with power)***
- D. Letter from Matthew Leahy, Leahy Landscaping, Inc, requesting a license to install an irrigation system within the public right of way ***(Sample motion – move to refer to the Legal Department for report back)***
- E. Letter from Kimberly Buxton, Bellman’s Portsmouth, requesting permission to close Chestnut Street from Congress Street to Porter for the 2nd Annual Cars, Cigars and Celebrities Event on Thursday, July 22nd and Friday, July 23rd ***(Sample motion – move to refer to the City Manager with power)***
- F. Letter from Richard “Brooksie” Brooks, Central Veterans Council, inviting the City Council to attend the Albacore Memorial Service on Monday, May 31st at 10:00 a.m. ***(Sample motion – move to accept and place the letter on file)***
- G. Sidewalk Obstruction License Application from Laminda (Mindy) Puckett, The Red Ginger, LLC, requesting permission to place 3 tables, 12 chairs and 1 A-frame sign in front of establishment located at 261 South Street ***(Sample motion – move to refer to the City Manager with power)***

- H. Sidewalk Obstruction License Application from Denise & Evan Mallett, Black Trumpet Bistro, requesting permission to place 1 bench and 1 A-frame sign in front of establishment located at 29 Ceres Street (***Sample motion – move to refer to the City Manager with power***)

XI. 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 Resolution Authorizing Borrowing in Anticipation of Revenues and Taxes in the amount of \$16,000,000.00 (***Action on this matter should take place under Section VIII of the Agenda***)
 - 1.2 First Reading of Ordinance amending Chapter 10, Article IV, Section 10.420 – District Location and Boundaries – Rezoning Lots on Sagamore Grove from Waterfront Business (WB) to Single Residence B (SRB) (***Action on this matter should take place under Section VIII of the Agenda***)

City Manager's Items Which Require Action

1. Acceptance of Southeast Watershed Alliance (SWA) Proposed By-laws and Appointment of Alternate Representative
2. Senior Citizen Transportation Agreement Re: Mark Wentworth Home
3. Acceptance of Brick Sidewalks Policy
4. Request to Establish FY11 Budget Review Work Session

Informational Items

1. Events Listing
2. Pine Street Park and Playground Improvements
3. Market Street Construction Detours

B. MAYOR FERRINI

1. Appointments to be Considered:
 - Kathy Pearce – Reappointment to the Cable Television and Communication Commission
 - James Melfi – Reappointment to the Citywide Neighborhood Steering Committee
 - Sharon Morrison – Reappointment to the Citywide Neighborhood Steering Committee

2. Appointments to be Voted:
 - Gary Nadeau – Appointment to the Building Code of Appeals
 - Sandra Dika – Reappointment to the Historic District Commission
 - Charles Bradley – Reappointment to the Portsmouth Housing Authority
 - Carlos Castro – Reappointment to the Portsmouth Housing Authority
3. *Reports

C. COUNCILOR COVIELLO

1. *Bomb Threat Assessment
2. *Study of possible revenue generation

XII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

(*Indicates verbal report)

INFORMATIONAL ITEMS

1. Notification that the Historic District Commission Minutes of the April 7, 2010 meeting are available on the City's website for your review

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: May 13, 2010
To: Honorable Mayor Thomas G. Ferrini and City Council Members
From: John P. Bohenko, City Manager
Re: City Manager's Comments on May 17, 2010 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.

Presentation:

1. **Trustees of the Trust Funds.** On Monday evening, Lea Aeschliman, Chair of the Trustees of the Trust Funds, will give an update to the City Council on the activities of the Trustees of the Trust.

Acceptance of Grants/Donations:

1. **Acceptance of Donations to the Coalition Legal Fund.** [Attached are copies of checks](#) from the Town of Hampton in the amount of \$1,500.00 and the Town of Marlow in the amount of \$200.00 donating funds to the Coalition Legal Fund, which will be utilized to continue our fight to eliminate the statewide property tax.

I would recommend that the City Council move to approve and accept the donations, as listed, to be placed in the Coalition Legal Fund. Action on this matter should take place under Section VII of the Agenda.

2. **Acceptance of Police Department Grant.** Attached under Section VII of the Agenda is a memorandum, dated April 22, 2010, from Gerald W. Howe, Chairman of the Portsmouth Police Commissioners, and Police Chief David J. Ferland, requesting that the City Council approve the following grant:
 - a. A grant in the amount of \$5,000 from the Crime Stoppers Organization for the Citizen Police Academy. Crime Stoppers provides complete funding for our annual Citizen Police Academy.

The Police Commission is submitting this information pursuant to City Policy Memorandum #94-36 for City Council approval and acceptance.

I would recommend that the City Council approve and accept the grant to the Portsmouth Police Department, as listed. Action on this matter should take place under Section VII of the Agenda.

3. **Acceptance of Community Development Block Grant Funds.** U.S. Housing and Urban Development has informed the City that a Community Development Block Grant (CDBG) in the amount of \$712,605 will be made available to Portsmouth for FY 2010-2011. The Community Development Department, working in conjunction with the City's Citizens Advisory Committee, held a series of public hearings and meetings over the last several months to solicit input and prioritize projects with regard to the expenditure of these funds. A copy of the FY 2010-2011 CDBG Budget is attached.

I would recommend the City Council move to accept and expend a Community Development Block Grant (CDBG) in the amount of \$712,605 from the U.S. Department of Housing and Urban Development. Action on this matter should take place under Section VII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. **Consideration of First Reading of Proposed Ordinance Amendments and Resolutions:**
 - 1.1 **First reading of Resolution Authorizing Borrowing in Anticipation of Revenues and Taxes in the amount of \$16,000,000.00.** Attached under Section VIII of the Agenda is a Resolution for FY11 authorizing borrowing in anticipation of taxes. As you are aware, by state law, the City bills for property taxes twice a year in arrears. For example, the first half tax bill in FY10 will be issued in October and is not due until December 1, 2010 even though our fiscal year starts on July 1, 2010. Similarly, the second half bill is not due until June 1, 2011.

Because property taxes constitute our single largest source of revenue, this lag in billing may cause a temporary cash flow problem for us in both the beginning and the middle of the fiscal year. If necessary, this resolution would allow us to borrow money on a short-term basis until the property taxes come in. The attached Resolution requires two readings of the City Council and a Public Hearing.

I would recommend the City Council move to pass first reading and hold a Public Hearing and adoption of the Resolution at the June 7th City Council meeting. Please note that borrowing resolutions need only two readings and must be adopted by a two-thirds vote of the City Council. Action on this matter should take place under Section VIII of the Agenda.

- 1.2 **First Reading of Ordinance amending Chapter 10, Article IV, Section 10.420 – District Location and Boundaries - Rezoning Lots on Sagamore Grove from Waterfront Business (WB) to Single Residence B (SRB).** As a result of the May 5th City Council meeting, under Section VIII of the Agenda, I am bringing back for first reading the [attached](#) proposed Ordinance amending Chapter 10, Article IV, Section 10.420 – District Location and Boundaries – Rezoning Lots on Sagamore Grove from Waterfront Business (WB) to Single Residence B (SRB).

On February 1, 2010 the Council voted to refer the [attached letter](#) from Peter G. Weeks of PGW Real Estate Consulting to the Planning Board for a report back as well as an accompanying [letter \(also attached\)](#) from the property owners of 2 Sagamore Grove (Lucian Szmyd), 4 Sagamore Grove (Craig Sieve) and 6 Sagamore Grove (William L. Pingree). Mr. Weeks' letter requested that six lots on Sagamore Grove (Map 201, Lots 3, 4, 5, 6, 7 and 8), which are currently zoned Waterfront Business, be rezoned to Mixed Residential Business or Single Residence B. [Attached for your information is a memo](#) from Planning Director Rick Taintor with further details regarding this matter.

On February 18, 2010, the Planning Board considered this matter and voted to schedule a public hearing, which took place on April 29, 2010. At their meeting on April 29th the Planning Board voted to recommend that the City Council rezone from Waterfront Business (WB) to Single Residence B (SRB) Map 201, Lots, 3, 4, 5, 6, 7 and 8 as depicted on the [attached proposed zoning map](#).

I would recommend the City Council move to pass first reading and establish a public hearing and second reading for the proposed Ordinance and zoning map, as presented, at the June 7, 2010 City Council meeting. Action on this matter should take place under Section VIII of the Agenda

Consent Agenda:

1. **Acceptance of Donation to Peirce Island Committee.** The Peirce Island Committee requests that the City Council accept the \$50.00 donation from Michael Callahan.

I would recommend the City Council move to accept the donation to the Peirce Island Committee, as presented. Action on this matter should take place under Section IX of the Agenda.

City Manager's Items Which Require Action:

1. **Acceptance of Southeast Watershed Alliance (SWA) Proposed By-laws and Appointment of Alternate Representative.** Council action is requested to accept the proposed by-laws for the Southeast Watershed Alliance (SWA). In addition, Council action is requested to appoint Dave Allen, the City's Deputy Director of Public Works as the alternate representative to the SWA.

Since the City Council action in November 2009 authorizing participation in the Southeast Watershed Alliance (SWA) and the appointment of Peter Rice, Water and Sewer Engineer, as the City's representative, the SWA has been working on its by-laws and mission statement. At its first meeting in January, Peter Rice was elected co-chair of the planning committee which is serving as the SWA's board until the by-laws are formally accepted. Minutes to the SWA meetings and the planning committee meetings can be found at the SWA website <http://www.southeastwatershedalliance.org/>.

The draft by-laws ([attached](#)) are near final with a vote to accept them set for June 9th. The draft by-laws have been reviewed by the State Attorney General's Office who is anticipated to approve them after the June 9th vote by the SWA. Our Legal Department has reviewed the draft by-laws and has no objection or concerns relative to their adoption. The City's liability is not increased by its participation in the organization or the adoption of the by-laws.

As you may recall, the SWA was established by the State Legislature (SB-168). Its purpose is to enable and encourage municipalities in the coastal watershed to work together to more effectively address Clean Water Act requirements particularly relative to nutrient pollution, as well as to engage in better planning to address the threats to New Hampshire's coastal resources. This "better planning" is intended to include wastewater, stormwater, and land use issues, as well as coordinated inter-municipal infrastructure planning and related infrastructure investments.

Most recently, the SWA has taken an active role in the regulatory process currently underway surrounding nutrients in the Great Bay. The SWA's message has been consistent with the City's efforts to convince the DES and EPA that good science is vital to ensure that scarce public dollars are targeted to the most cost effective solutions. These efforts have elicited a negative response from the Conservation Law Foundation ([see attached letter](#)). CLF does not believe the SWA should participate in the regulatory process and that its role should be merely to implement whatever is handed them whether it is cost effective or not.

The City, like most communities in the Great Bay watershed, faces significant costs associated with regulatory compliance as part of our wastewater infrastructure and increasingly with our stormwater infrastructure. I believe it is in the City's best interest to approve these by-laws and to continue its participation in the SWA. As a coalition of communities, we have a much better chance at influencing policy to ensure that the monies spent are for the greatest environmental benefit.

I would recommend the City Council move the following motions:

- 1) *Move to authorize the City's SWA representative to accept on behalf of the City the draft by-laws, and;*
- 2) *Move to authorize the Deputy Director for Public Works, David Allen, to serve as an alternate to SWA.*

2. **Senior Citizen Transportation Agreement Re: Mark Wentworth Home.** On April 1, 1975, the City of Portsmouth transferred the Senior Citizens Center's function and personnel to the Portsmouth Housing Authority (PHA). In 1976, the PHA took over complete responsibility for the operation of the Senior Citizen Transportation Program. The City has funded the operation since that time. The current annual subsidy for senior transportation is \$65,000 and has been that amount since FY 2003.

In 2008, the Department of Housing and Urban Development directed the PHA to divest itself of all social services, and senior transportation was considered a social service. Wentworth Connections assumed the operation of Portsmouth Housing Authority vehicles for senior transportation in 2009 to continue this valuable service to Portsmouth residents.

Since January 2009, Wentworth Connections offered affordable transportation for people sixty years old and older and the disabled. They offer their services Monday through Friday from 7:00 a.m. to 4:00 p.m. for medical appointments, grocery or pharmacy shopping and volunteer positions in the City of Portsmouth. Dialysis patients are offered a 5:30 a.m. pickup option. Cost of the service is based on income and passengers purchase a 20 ride pass. Passengers call to schedule their appointments the day before, from 8:00 am to 12:00 pm. All City funded rides will take place within the City of Portsmouth. Therefore, I am requesting that Wentworth Connections receive the \$65,000 subsidy for senior transportation instead of the Portsmouth Housing Authority in FY 2011. [Attached](#) is a copy of the Transportation Agreement.

I would recommend the City Council move to approve a Transportation Agreement with the Mark Wentworth Home d/b/a Wentworth Connections, and authorize the City Manager to enter into an Agreement to grant the sum of \$65,000 for senior transportation in place of the Portsmouth Housing Authority in FY 2011.

3. **Acceptance of Brick Sidewalks Policy.** As a result of the May 5th City Council meeting, I am bringing back for acceptance the [attached proposed brick sidewalks policy](#) reflecting the following proposed changes: 1) No brick sidewalks on Maplewood Avenue west of the bridge over the Mill Pond and 2) No brick sidewalks on Middle Street and Lafayette Road south of Aldrich Road (on this section, asphalt sidewalks including asphalt over concrete constitutes 53% of the material, 21% concrete, 14% brick and 12% no sidewalk. [See attached sidewalks material map](#)). Previously staff recommended sidewalks within the new Historic District areas should also be brick with the exception of Islington Street, as well as New Castle Avenue east of Marcy Street.

Over the course of the past six to eight years, sidewalks located within the Historic District have been constructed with brick when sidewalk improvements are carried out. A map depicting the boundaries of the Historic District is [attached](#). Within the Historic District, areas shown in red are proposed to be brick, while areas shown in gray are proposed to be concrete. As you know, with the recent passage of the revised Zoning Ordinance, the Historic District was expanded down Islington Street to Jewell Court/Bartlett Street; down Lafayette Road to South Street; and on Hanover Street between Bridge Street and Vaughan Mall.

One issue that arises is when parcels within the Historic District front on a side street, the majority of which is not within the District (for example along Middle Street). In these cases, the approach has been to be consistent with the sidewalk material used along the majority of the side street. The second issue that arises has to do with sidewalks located outside the Historic District that have historically been brick. Past practice with regard to these sidewalks has been determined through a separate vote of the City Council. When upgrades are made to other sidewalks in the City, concrete is used with black asphalt being replaced with concrete.

I would recommend the City Council move to accept the Brick Sidewalks Policy, as amended.

4. **Request to Establish FY11 Budget Review Work Session.** As a result of the May 11th Budget Work Session, I am requesting that the City Council establish an FY11 Budget Review Work Session on Monday, May 24, 2010, at 6:30 p.m., in the Eileen Dondero Foley Council Chambers.

I would recommend the City Council move to establish an FY11 Budget Review Work Session for Monday, May 24, 2010 at 6:30 p.m., in the Eileen Dondero Foley Council Chambers.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on May 3, 2010. In addition, this now can be found on the City's website.
2. **Pine Street Park and Playground Improvements.** For your information, [attached is a memorandum](#) to the Pine Street Neighborhood Residents, regarding the Pine Street Park and Playground improvements.
3. **Market Street Construction Detours.** For your information, Market Street outbound traffic between Deer and Hanover Streets will be detoured periodically over the next few weeks and the detour will be in full effect in both directions next Monday through Thursday (May 17-20) between 7:00 a.m. and 4:00 p.m. while workers make drainage improvements. ([See attached map.](#)) Traffic may be limited to one-way at any point during the remainder of the time. Weather and other factors also may cause delays in completing the project. A new drain line is being installed and the road between Deer and Russell Streets will be narrowed for traffic calming.