

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, AUGUST 15, 2011 TIME: 7:00PM

AGENDA

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

PRESENTATION

- 1. *Flag flown by the USS New Hampshire over the North Pole

V. ACCEPTANCE OF MINUTES – AUGUST 1, 2011

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARING

- A. PROPOSED CHARTER AMENDMENT RELATIVE TO PROHIBITING MUNICIPAL EMPLOYMENT OF CERTAIN ELECTED OFFICIALS

VIII. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

There are no items under this Section of the Agenda this evening

IX. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Mark Brighton, President of The Association of Portsmouth Taxpayers, regarding health care for employees/unions in the City of Portsmouth (*Attached is response from City Manager to Mr. Brighton regarding this matter*)
- B. Letter from Marsie Silvestro, A Safe Place, requesting permission to hold a candle light vigil on Thursday, October 6, 2011 from 6:00 p.m. – 7:00 p.m. at the Vaughan Mall (***Sample motion – move to refer to the City Manager with power***)
- C. Letter from Gene Fisk, Gene Fisk & Associates, LLC, requesting the City consider selling a small parcel of land 175/177 Myrtle Avenue between Van Aken's and the bypass (***Sample motion – move to refer to the Planning Board for report back***)
- D. Letter from Maryellen Burke, Portsmouth Historical Society, requesting a Waiver of Permit Fees for the Discover Portsmouth Center (***Sample motion – move to waive the permit fees associated with the Discover Portsmouth Center rehabilitation project as requested in the letter dated August 8, 2011***)

X. 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: Charter Revision (***Action on this matter will take place under City Manager's Items Which Require Action***)
2. Letter from the Portsmouth Historical Society (***Action on this matter will take place under Section IX of the Agenda***)

City Manager's Items Which Require Action

1. Redistricting Report
2. Proposed Charter Amendment
3. Naming of Granite Street Softball Field
4. Acceptance of Sidewalk Easement Re: 125 Brewery Lane
5. Proposed Purchase of Conservation Land Re: Island in Sagamore Creek
6. Request for a License from Joanne Wiren, owner of Art with a Splash for property located at 82 Fleet Street to install a projecting sign
7. Polling Hours for November 8, 2011 Municipal Election
8. Acceptance of Drainage Easements
9. Retirement Rates
10. Request to Expend \$860.00 in Funds from the Conservation Fund to conduct a Natural Resource Assessment of the Sanderson Property off Spinney Road (Tax Map Parcel 167/5)

Informational Items

1. Events Listing
2. Municipal Election Filing Period
3. Letter to Superintendent McDonough Re: Review of Occupancy Limits at Little Harbour School
4. African Burying Ground Trust Donations

B. MAYOR FERRINI

1. Appointment to be Considered:
 - Chris Hubbard – Appointment to the Peirce Island Committee
 - Dana Levenson – Appointment to the Board of Trustees of Trust Fund
2. Resignations:
 - Donald Coker from the Planning Board
 - John Connors from the Traffic & Safety Committee

C. COUNCILOR LISTER

1. *USS Virginia Report

XI. MISCELLANEOUS/UNFINISHED BUSINESS

XII. 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 June 8, 2011 and July 6, 2011 meetings 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: August 11, 2011
To: Honorable Mayor Thomas G. Ferrini and City Council Members
From: John P. Bohenko, City Manager
Re: City Manager's Comments on August 15, 2011 City Council Agenda

Presentation:

1. **Presentation of Flag flown by the USS New Hampshire over the North Pole.** On Monday evening, members of the USS New Hampshire Community Commissioning Committee will present the flag flown by the submarine over the North Pole to the City, which adopted the submarine when it was commissioned here on October 25, 2008.

Items Which Require Action Under Other Sections of the Agenda:

1. **Public Hearing:**
 - 1.1 **Public Hearing Re: Charter Revision.** On Monday evening, the City Council will be conducting a public hearing at 7:00 p.m., regarding the proposed Charter amendment ([see attached notice of public hearing](#)).

Action on this matter will take place under City Manager's Items Which Require Action.

2. **Letter from the Portsmouth Historical Society.** [Attached under Written Communications is a letter from Maryellen Burke, Executive Director](#) of the Portsmouth Historical Society. Ms. Burke requests the City waive \$11,808 in permit fees for the upcoming \$1.0 million rehabilitation project at Discover Portsmouth Center located in the former library building. As you know, the City is the building owner and a grantor of State funds to the project. While the City leases buildings to other entities for public purposes, this project will result in carrying out significant building upgrades costing nearly \$1.0 million. In addition, the City itself is a project funder. As a result, I believe there is a public benefit in waiving the permit fees as requested to facilitate the project's construction. If the City Council authorizes the waiving

of this fee, it does not relieve the Historical Society or its construction contractor(s) from getting a building permit from the City's Inspection Department.

I would recommend the City Council move to waive the permit fees associated with the Discover Portsmouth Center rehabilitation project as requested in the letter dated August 8, 2011.

City Manager's Items Which Require Action:

1. **Redistricting Report.** As you may recall, at your meeting on July 18, 2011, the City Council reviewed the [attached Redistricting Report from City Clerk Kelli L. Barnaby](#). Based on the City staff's research of this matter City ward lines were first established by the Legislature in 1895 and have continued to be amended in 1947, 1957, 1971 and 1983 by the Legislature during Session Law. Ms. Smarling of the House Research Committee has indicated based on the population figures, Portsmouth would be entitled to 6.45 Representatives. It is ultimately the Legislature that will determine the number of representatives the City will receive and the method in which it would be done.

In order to review the boundary lines, City Clerk Kelli Barnaby met with GIS Coordinator James McCarty and took the census data blocks and placed them over our ward map to review and discuss various changes that could possibly take place. [Attached is the ward map](#) depicting the proposed boundary lines by using our equalized population of 4,247. Deputy Secretary of State Dave Scanlan has recommended that a session law change is appropriate and that the City Council should request that the Legislature act on the changes for the January 2012 Session.

I would recommend that City Clerk Barnaby be authorized to submit the adjusted ward lines on behalf of the City Council to the Legislature requesting a session law change to act upon the reflected new boundaries in January 2012.

2. **Proposed Charter Amendment.** If the City Council wishes to proceed with this proposed Charter amendment, the Council would move the following motion:

Move to authorize the City Clerk to place the Referendum Question, as presented, on the November 8, 2011 Municipal Ballot incorporating the following new provision in the Municipal Charter:

No member of the City Council, School Board, Fire Commission or Police Commission shall apply for or become an employee of the City until the expiration of the term for which that person was elected to office.

3. **Naming of Granite Street Softball Field.** As you will recall, the Recreation Board met in a work session with the City Council to discuss the naming of the Granite Street Softball Field (see attached letter from Carl Diemer, Chair of the Recreation Board). At that work session, it was determined that the name of the softball field should be Alumni-Wentworth Field. The procedure to name the field has been reviewed in accordance with Rule 44 of the City Council Rules and Orders. For your information, on Wednesday, August 10, 2011, the Recreation Board met to discuss ways to honor individuals who have committed substantial volunteer efforts to the betterment of the softball and recreation programs. Attached is a copy of the minutes from the August 10th meeting regarding some of the ideas they had pertaining to this matter. Rus Wilson, Recreation Director and Carl Diemer, Chair of the Recreation Board, will attend Monday evening's meeting to further update the City Council on their ideas regarding the process for honoring individuals.

Therefore in accordance with Rule 44, the City Council can act on the following motion:

Move to name the new softball field the Alumni-Wentworth Field.

4. **Acceptance of Sidewalk Easement Re: 125 Brewery Lane.** Saco Ave Professional Building Inc is the owner of property at 125 Brewery Lane (the former public works facility property). Saco Ave received site plan approval from the City's Planning Board on November 18, 2005 for the redevelopment of the property. That site plan approval has been extended multiple times in part to accommodate the City's Bartlett-Islington Street sewer separation project.

The City's sewer separation is complete and Saco Ave Professional Building Inc. is prepared to commence the redevelopment of the property. As a condition of approval, Saco Ave is required to convey a sidewalk easement to the City. Attached is an aerial photograph showing the unimproved site as well as an attached sidewalk easement plan showing the easement area. The Department of Public Works, the Planning Director and the Legal Department have reviewed and approved the easement document.

I would recommend the City Council move to authorize the City Manager to accept a sidewalk easement at 125 Brewery Lane from Saco Ave Professional Building Inc.

5. **Proposed Purchase of Conservation Land Re: Island in Sagamore Creek.** Attached is a letter from Robert Thoresen representing David Linn owner of a small island in Sagamore Creek. Mr. Linn is offering the island to the City for \$25,000.

By way of background, the sale of this island was first brought before the Conservation Commission last fall for their consideration. The Conservation Commission was unclear as to the natural resource values of this island and did not have a dollar amount associated with the purchase. In February, of this year, the owner sent an email offering the island for the sale price of \$28,000 at which point the Conservation Commission was still uncertain as to whether it was an important property to protect from a conservation standpoint. To investigate this question further, the Commission used the balance of its Public Undeveloped Lands Assessment funds

to hire West Environmental to conduct a natural resource assessment of this island ([see attached report.](#))

Upon reviewing the results of that work, the Commission was in agreement that they would like to see the island protected; however, there was not a consensus on whether to pay the full asking price or attempt to negotiate a lower price. Since that time, the owner has been informed of the Commission's unanimous agreement that they would like to see the island added to the City's conservation inventory. The next step would be to refer this matter to the Planning Board for report back to the City Council (all properties either sold or purchased by the City need to be reviewed by the Planning Board). Please note that the revised offer by Mr. Linn is to sell the property for \$25,000. Further, be advised funding for this purchase could be made through the Conservation Fund.

The property (Map 227 Lot 0002) is in the name of David N. Linn, Portsmouth Revocable Trust and is currently assessed at \$153,200 up from \$98,000 in 2009.

I would recommend the City Council move to refer this matter to the Planning Board for report back.

6. **Request for a License from Joanne Wiren, owner of Art with a Splash for property located at 82 Fleet Street to install a projecting sign.** [Attached is a copy of a memorandum](#) from Rick Taintor, Planning Director, outlining his recommendation regarding a request from Joanne Wiren, owner of Art with a Splash for property located at 82 Fleet Street, to install a projecting sign on an existing bracket. [Attached are the photographs.](#) The proposed sign complies with the zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed and shall be subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the projecting sign, for any reason, will be done at no cost to the City; and
3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be 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 Director with the aforementioned stipulations and approve the request of Joanne Wiren, owner of Art with a Splash to install a projecting sign on an existing bracket at 82 Fleet Street and, further, authorize the City Manager to execute a License Agreement for this request.

7. **Polling Hours for November 8, 2011 Municipal Election.** Attached is a memorandum from [Kelli L. Barnaby, City Clerk](#), recommending that the polling hours for the Municipal Election be set from 8:00 a.m. to 7:00 p.m.

I would recommend the City Council move to set the polling hours from 8:00 a.m. to 7:00 p.m. for the Municipal Election on Tuesday, November 8, 2011.

8. **Acceptance of Drainage Easements.** Linda Harding is the owner of an approximately two acre parcel at 1808 Islington Street. Ms. Harding received approval from the City's Planning Board on October 21, 2010 to subdivide the parcel into two lots. As part of the subdivision approval, various easements to and from the City were required. The City Council has previously approved several of the easements on September 7, 2010. However, additional drainage easements were subsequently identified. These drainage easements will run from Islington Street in favor of the City across Lot 1 and Lot 2. See attached plan showing the easement across Lot 2 in red and easement across Lot 1 in blue.

The Department of Public Works, the Planning Director and the Legal Department have reviewed and approved the easement documents.

I would recommend the City Council move to authorize the City Manager to accept two drainage easements from Linda Harding over Lots 1 and 2 at 1808 Islington Street.

9. **Retirement Rates.** Attached is an announcement from the [New Hampshire Retirement System](#) regarding the employee contribution rates that were re-certified pursuant to House Bill 2, effective August 1, 2011 through June 30, 2013. The additional cost over and above what has been budgeted for FY12 for each group is as follows:

Police	\$101,405
Fire	\$117,700
Schools	\$302,584

Total Shortfall \$521,689

The shortfall can be made up through a transfer of \$521,689 from the FY12 collective bargaining and pension contingency, in accordance with Section 7.16 of the City Charter, which allows for transfer with the approval of the City Council.

Therefore, I would recommend that the City Council place this matter on its September 6th agenda for action.

10. **Request to Expend \$860.00 from the Conservation Fund to conduct a Natural Resource Assessment of the Sanderson Property off Spinney Road (Tax Map Parcel 167/5).** The property owners of large tract of land of land off Spinney and Middle Roads are considering a nine lot residential subdivision of this land (see [aerial presentation plan](#)). In advance of this subdivision proposal, Mr. Paul Sanderson, representative for the Lynn J. Sanderson Revocable Trust and Frances T. Sanderson Revocable Trust, has requested the City review this property for possible conservation acquisition (see [attached letters from Paul Sanderson, dated June 21, 2011, and Leslie Dolleman, dated May 25, 2011](#)).

This matter was referred to both the Planning Board and the Conservation Commission. Upon their consideration at their July meetings of this area both Boards have stated that they need additional information to further consider and make any recommendation to the City Council regarding this request.

An estimate for a review of the Conservation Values has been provided by West Environmental in the amount of \$860.00. This review would include a site inspection, collection of natural resource information and photographs provided in a letter report of the findings.

The Conservation Commission at their meeting on August 9, 2011 has reviewed the cost estimate provided by West Environmental and voted to recommend spending funds from the Conservation fund to further investigate this parcel. In order to proceed, the City Council must authorize this expenditure.

I would recommend the City Council move to accept the Conservation Commission's recommendation to expend \$860.00 from the Conservation Fund to conduct a natural resource assessment of the Sanderson property.

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 1, 2011. In addition, this now can be found on the City's website.
2. **Municipal Election Filing Period.** For your information, [attached is a memorandum from Kelli Barnaby, City Clerk](#), regarding the filing period for the November 8, 2011 Municipal Election, which begins on Monday, August 29, 2011 and ends Monday, September 12, 2011.
3. **Letter to Superintendent Ed McDonough Re: Review of Occupancy Limits at Little Harbour School.** For your information, [attached is a copy of a letter from Carl F. Roediger, CFEI, Fire Inspector](#), to Superintendent Ed McDonough regarding review of occupancy limits at Little Harbour School.

4. **African Burying Ground Trust Donations.** The African Burying Ground Committee has received the following donations to the African Burying Ground Trust since its July 6, 2011 memo to City Council. The total donated to the trust, by individuals, to date is \$8,740.04.

➤	Laurie & Clark Chandler	\$25
➤	Joy & Don Hagstrom	\$30
➤	Joan Gagalis	\$50
➤	Vincent & Linda Marconi	\$100
➤	John & Arlene Tommasini	\$100
➤	Donna Lyn Tamaroff & Michael Shingleton	\$200
➤	Kathleen & Ronald Zolla	\$200
➤	Jeffrey & Karen Mountjoy	\$250
➤	MJ Blanchette & Brian Cox	\$1,000