

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, MARCH 5, 2012 TIME: 7:00PM

AGENDA

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

PROCLAMATION

1. Music in Our Schools Month – “Music Lasts a Lifetime”

V. ACCEPTANCE OF MINUTES – FEBURARY 21, 2012

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARING

- A. CAPITAL IMPROVEMENT PLAN (CIP) FY2013-2018 (***Action on this matter will be taken at the March 19, 2012 City Council meeting***)

- Letter from Karina Quintans, Islington Creek Neighborhood Coordinator, requesting that the remaining \$1.2M of the budget within the Capital Improvement Plan be approved during the current year approval process and allocated with no further delays to completing the work for sidewalk improvements throughout the Islington Creek Neighborhood

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grants/Donation to the Portsmouth Police Department
 - Grant from the Department of Justice to support the Victim/Witness Advocate position in court office - \$70,219.00
 - Grant from the Department of Highway Safety for DWI/DUI Patrols - \$8,250.00
 - Donation from St. Andrew's Lodge No. 56 in support of the Portsmouth Police Honor Guard - \$500.00

(Sample motion – move to approve and accept the grants and donation to the Portsmouth Police Department, as listed)
- B. *U.S. Homeland Security Grant Acceptance, Critical Care and Supplemental Oxygen
(Sample motion – move to authorize the City Manager to execute any and all documents and agreements to allow portable ventilators, provided by the State of New Hampshire for the benefit of the municipality in emergency situations, to be granted directly to the Portsmouth Regional Hospital to be stored, maintained and deployed as necessary)

- C. *Acceptance of Grant for Art-Speak
- Rotary Club of Portsmouth - \$2,000.00
- (Sample motion – move to approve and accept the grant to Art-Speak, as presented)***

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Proposed Ordinance Amendment to Chapter 1, Article XIV, Section 1.14 – Municipal Fund Balance by the deletion of the terminology *Undesignated* throughout the Ordinance with the replacement of the terminology **Unassigned**
- B. First reading of Resolution Authorizing the Issuance of Refunding Bonds to Refinance Certain Outstanding Bonds of the City so as to Reduce Interest Costs and to Pay all Costs Incidental and Related Thereto. The City is authorized to issue refunding bonds in the amount of up to Twenty Million Dollars (\$20,000,000.00)
- C. First reading of Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan for Costs Related to the Long Term Control Plan (LTCP) Implementation not to exceed Twelve Million Five Hundred Thousand (\$12,500,000.00) Dollars

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Kelly Sicard, Breathe New Hampshire, requesting permission to hold the 27th Annual Seacoast Bike Tour on Saturday, May 19, 2012 and May 20, 2012
(Anticipated action – move to refer to the City Manager with power)
- B. Letter from Brenda Blonigen, The Pease Air National Guard Base Minuteman Fund, requesting permission to hold the 2nd Annual Pease 7k Road Race/Walk on Sunday, July 15, 2012 on the Pease Tradeport ***(Anticipated action – move to refer to the City Manager with power)***
- C. Request for a License from Heidi Archibald, owner of The Colour Bar on Pleasant Street for property located at 86 Pleasant Street to install a projecting sign on an existing bracket ***(Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Heidi Archibald, owner of The Colour Bar on Pleasant Street to install a projecting sign at 86 Pleasant Street and, further, authorize the City Manager to execute a License Agreement for this request)***

Planning Director's Stipulations:

- ***The license shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting sign, for any reason, will be done at no cost to the City; and***
- ***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***

- D. Request for a License from Jay Schadler, owner of Jay Schadler Studio on Fleet Street for property located at 82 Fleet Street to install a projecting sign on an existing bracket ***(Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Jay Schadler, owner of Jay Schadler Studio on Fleet Street to install a projecting sign at 82 Fleet Street and, further, authorize the City Manager to execute a License Agreement for this request)***

Planning Director's Stipulations:

- ***The license shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting sign, for any reason, will be done at no cost to the City; and***
- ***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***

- E. Request for a License from Mark McNabb, owner of 82-86 Congress LLC, on Chestnut Street for property located at 25 Chestnut Street to install a projecting sign on an existing bracket ***(Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Mark McNabb, owner of 82-86 Congress LLC, on Chestnut Street to install a projecting sign at 25 Chestnut Street and, further, authorize the City Manager to execute a License Agreement for this request)***

Planning Director's Stipulations:

- ***The license shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting sign, for any reason, will be done at no cost to the City; and***
- ***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***

- F. Request for Renewal of Boarding House Permit for G. Edward Gowen Jr., 350-352 Hanover Street (***Anticipated action – move to authorize the City Manager to issue the Boarding House Permit for G. Edward Gowen Jr., 350-352 Hanover Street***)
- G. Request for Renewal of Boarding House Permit for Paul H. White, 278 Cabot Street (***Anticipated action - move to authorize the City Manager to issue the Boarding House permit for Paul H. White, 278 Cabot Street***)
- H. Request for Approval of Pole License to install/replace 1 pole located at the intersection of State Street and Cass Street (***Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes***)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Michael and Anne Coffey with a Petition from residents of Haven Road, Brackett Lane and Brackett Road regarding the number of events being held at the Little Harbour School and the problems that are associated with the events (***Sample motion – move to refer to the Parking and Traffic Safety Committee for report back***)
- B. Letter from Steven Marison, Peirce Island Committee Chair, requesting a memorial plaque be placed on a bench at Peirce Island in memory of Harold Hapgood and his dog Puma
- C. Letter from Barbara Devanna requesting an easement in perpetuity over an area of 750 square feet for property located at 55 Meredith Way (***Sample motion – move to refer to the Planning Board for report back***)
- D. Letter from William Mortimer and Jack Kelley, requesting the City Council to make a donation to the Portsmouth High School Clipper Band to participate in the Disney Music Festival in Orlando, Florida from April 22 through April 29, 2012

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items Which Require Action Under Other Sections of the Agenda

1. Consideration of First Reading of Proposed Resolution and Ordinance Amendments:
 - 1.1 First reading of Proposed Ordinance Amendment to Chapter 1, Article XIV, Section 1.14 – Municipal Fund Balance by the deletion of the terminology *Undesignated* throughout the Ordinance with the replacement of the terminology **Unassigned (Action on this matter should take place under Section IX of the Agenda)**
 - 1.2 First reading of Resolution Authorizing the Issuance of Refunding Bonds to Refinance Certain Outstanding Bonds of the City so as to Reduce Interest Costs and to Pay all Costs Incidental and Related Thereto. The City is authorized to issue refunding bonds in the amount of up to Twenty Million Dollars (\$20,000,000.00) **(Action on this matter should take place under Section IX of the Agenda)**
 - 1.3 First reading of Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan for Costs Related to the Long Term Control Plan (LTCP) Implementation not to exceed Twelve Million Five Hundred Thousand (\$12,500,000.00) Dollars **(Action on this matter should take place under Section IX of the Agenda)**
2. Public Hearing and Adoption of Proposed Resolutions:
 - 2.1 Public Hearing Re: Proposed Capital Improvement Plan (CIP) FY2013-2018 **(Action on this matter will be taken at the March 19, 2012 City Council meeting)**

City Manager's Items Which Require Action

1. Policy Regarding Use of City Property for Sidewalk Cafes Providing Alcohol Services

Informational Items

1. Events Listing
2. Economic Development Commission Agenda and Draft Minutes

B. MAYOR SPEAR

1. Appointment to be Considered:
 - Appointment of Christopher Mulligan to the Zoning Board of Adjustment
2. Appointments to be Voted:
 - Appointment of Daniel Rawling to the Historic District Commission
 - Reappointment of James Russ to the Peirce Island Committee
3. *Work Session on March 12th at 6:30 p.m. regarding Guiding Principles Re: Parking & Disposal of Connie Bean Center
4. *Work Session on March 26th at 6:30 p.m. regarding Quarterly Meeting with Economic Development Commission, Planning Board and Historic District Commission
5. *Work Session on April 9th at 6:30 p.m. regarding Update on Wastewater Treatment

C. COUNCILOR NOVELLINE CLAYBURGH

1. Recommended Ordinance Amendments – Magazine Solicitors’, Alarm Systems Service and Dog Licensing (***Sample motion – move to authorize the drafting of Ordinances regarding these recommendations for first reading at the March 19, 2012 City Council meeting***)

D. COUNCILOR DWYER

1. *Update on Middle School

E. COUNCILOR SMITH

1. Parking and Traffic/Safety Committee Meeting Minutes and Action Sheet from February 16, 2012 meeting
2. Recommended Ordinance Amendments – Magazine Solicitors’, Alarm Systems Service and Dog Licensing (***Sample motion – move to authorize the drafting of Ordinances regarding these recommendations for first reading at the March 19, 2012 City Council 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. Notification that the Planning Board Minutes of November 17, 2011 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: March 1, 2012
To: Honorable Mayor Eric Spear and City Council Members
From: John P. Bohenko, City Manager
Re: City Manager's Comments on March 5, 2012 City Council Agenda

Acceptance of Grants and Donations:

1. **Acceptance of Police Department Grants and Donation.** Attached under Section VIII of the Agenda is a memorandum, dated February 15, 2012, from John F. Golumb, Chairman of the Portsmouth Police Commissioners, and Police Chief David J. Ferland, requesting that the City Council approve the following grants and donations:
 - a. A grant in the amount of \$70,219 from the Department of Justice to support the Victim/Witness Advocate position in our court office.
 - b. A grant in the amount of \$8,250 from the Department of Highway Safety for DWI/DUI Patrols.
 - c. A donation in the amount of \$500 from St. Andrew's Lodge No. 56 in support of the Portsmouth Police Honor Guard.

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 move to approve and accept the grants and donation to the Portsmouth Police Department, as listed. Action on this matter should take place under Section VIII of the Agenda.

2. **U.S. Homeland Security Grant Acceptance, Critical Care and Supplemental Oxygen.** As part of a U.S. Homeland Security Grant to the State of New Hampshire, funds were provided for a Critical Care and Supplemental Oxygen Program. Portsmouth Regional Hospital can improve response capability in a disaster event by participating in this program, which will provide the hospital with portable ventilators that will enhance preparedness during medical surge events and reduce adverse outcomes that could result from a lack of medical surge equipment. It is required that the ventilators – which are complicated machines that need biomedical maintenance and regular use to remain operational – be awarded to the hospital so that they can be used and maintained.

Because of U.S. Homeland Security requirements, the City of Portsmouth must agree, by being a signatory to the grant agreement, that this equipment be provided to Portsmouth Regional Hospital. There are no grant match requirements and no local funds are needed for this project. Portsmouth Regional Hospital will be the fiscal agent and meet the various grant requirements.

I would recommend the City Council move to authorize the City Manager to execute any and all documents and agreements to allow portable ventilators, provided by the State of New Hampshire for the benefit of the municipality in emergency situations, to be granted directly to the Portsmouth Regional Hospital to be stored, maintained and deployed as necessary. Action on this matter should take place under Section VIII of the Agenda.

3. **Acceptance of Grant for Art-Speak.** Art-Speak requests that a \$2000 grant from the Rotary Club of Portsmouth be accepted by the City Council on behalf of Art-Speak. The grant was awarded to support Art-Speak's Art & Economic Prosperity Survey.

I would recommend the City Council move to approve and accept the grant to Art-Speak, as presented. Action on this matter should take place under Section VIII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. **Consideration of First Reading of Proposed Resolution and Ordinance Amendments:**

- 1.1 **First Reading of Proposed Ordinance Amendment to Chapter 1, Article XIV, Section 1.14 – Municipal Fund Balance by the deletion of the terminology Undesignated throughout the Ordinance with the replacement of the terminology Unassigned.** As a result of the February 21st City Council meeting, under Section IX of the Agenda, I am bringing back for first reading the aforementioned proposed Ordinance amendment ([see attached](#)). As part of the budget presentation at the City Council retreat held on January 28, 2012, the Finance Director, Judie Belanger described the new fund balance model in conformity with Governmental Accounting Standards Board (GASB) Statement No. 54.

As you know, the City currently has a Municipal Fund Balance Ordinance Chapter 1, Article XIV, Section 1.14 – which addresses the use and maintenance of the Undesignated portion of the fund balance. The new fund balance model changes the terminology of Undesignated Fund Balance to Unassigned Fund Balance. Therefore, the terminology change makes it necessary for the City to amend the current City ordinance to reflect the new terminology.

I would recommend the City Council move to pass first reading and schedule a public hearing and second reading on the proposed Fund Balance Ordinance, at the March 19, 2012 City Council meeting. Action on this matter should take place under Section IX of the Agenda.

1.2 **First Reading of Resolution Authorizing the Issuance of Refunding Bonds to Refinance Certain Outstanding Bonds of the City so as to Reduce Interest Costs and to Pay all Costs Incidental and Related Thereto. The City is authorized to issue refunding bonds in the amount of up to Twenty Million Dollars (\$20,000,000)**

As a result of the February 21st City Council meeting, under Section IX of the Agenda, I am bringing back for first reading the aforementioned proposed Resolution ([see attached](#)).

As part of the budget presentation at the City Council retreat held on January 28, 2012, a refunding (refinancing) opportunity was discussed which may result in substantial savings to the City.

The City issued a \$46,640,000 bond on September 15, 2002. The majority of the proceeds (\$38 Million) financed the construction/renovation of the High School.

The original bond terms included a call provision which allows the issuer the option to pay off bonds prior to the maturity date by issuing another bond at a lower interest rate.

The average coupon rate (interest) for the remaining life of the bond is 4.47%. The City, by opting to refinance this bond in the current market, could experience an average interest rate below 2% resulting in substantial savings of approximately \$2.2 Million in total debt service or in excess of \$200,000 per year, net of all issuance costs, over the remaining life of the bond.

Keeping in mind that interest rates are subject to change, the table below demonstrates the comparison of the existing debt service with the estimated new debt along with the projected savings for the remaining life of the bond.

<u>Fiscal Year</u>	<u>Existing Debt Service</u>	<u>New Debt Service</u>	<u>Savings</u>
2013	\$3,679,587.50	\$3,473,237.50	\$206,350.00
2014	\$2,728,875.00	\$2,521,175.00	\$207,700.00
2015	\$2,633,875.00	\$2,424,125.00	\$209,750.00
2016	\$2,538,875.00	\$2,333,125.00	\$205,750.00
2017	\$2,443,875.00	\$2,238,175.00	\$205,700.00
2018	\$2,348,875.00	\$2,139,375.00	\$209,500.00
2019	\$2,263,375.00	\$2,054,293.75	\$209,081.25
2020	\$2,186,187.50	\$1,977,725.00	\$208,462.50
2021	\$2,106,625.00	\$1,901,943.75	\$204,681.25

2022	\$2,024,687.50	\$1,819,812.50	\$204,875.00
2023	<u>\$1,941,562.50</u>	<u>\$1,736,437.50</u>	<u>\$205,125.00</u>
Total	\$ 26,896,400.00	\$ 24,619,425.00	\$ 2,276,975.00

I would recommend the City Council move to pass first reading and schedule a public hearing and adoption of a proposed Refunding Resolution of up to Twenty Million Dollars (\$20,000,000) as presented, at the March 19, 2012 City Council meeting. (The Refunding Resolution requires two readings and a public hearing with two-thirds vote of the City Council.) Action on this matter should take place under Section IX of the Agenda.

- 1.3 **First Reading of Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan for Costs Related to the Long-Term Control Plan (LTCP) Implementation not to exceed Twelve Million Five Hundred Thousand (\$12,500,000) Dollars.** As a result of the February 21st City Council meeting, under Section IX of the Agenda, I am bringing back for first reading the aforementioned proposed Resolution ([see attached](#)). As you are aware, for the past 2 1/2 years the City has been working under a Consent Decree that dictates schedules for various projects related to the wastewater collection and treatment system. The projects related to the collection system improvements are defined in the City's Long-Term Control Plan. That plan, which was updated during the Wastewater Master Plan process, outlines a series of sewer separation projects that are designed to reduce the occurrences of combined sewer overflows (CSO's).

The consent decree included 6 CSO projects; three of those are referred to as the Lincoln 3 planning area, two as the Islington planning area and one as the Court/State planning area. To date, State Street and the first Islington project have been completed. The first phase of the Lincoln projects (referred to as Lincoln 3A) will be completed this spring. The other three projects need to be constructed over the next 2 1/2 years. Those projects are Lincoln 3B and Cass Street, followed by Lincoln 3C. The three remaining project areas are shown on the [attached maps](#).

The estimated sewer related costs for the three projects is \$12.5 million. The Sewer Division will be requesting authorization to borrow up to \$12.5 million to fund these projects. The cost of these projects has been included in the current rate model.

I would recommend the City Council move to pass first reading and schedule a public hearing and adoption of a Bond Resolution for the aforementioned long-term control plan, as presented, at the March 19, 2012 City Council meeting. (The Refunding Resolution requires two readings and a public hearing with two-thirds vote of the City Council.) Action on this matter should take place under Section IX of the Agenda.

2. **Public Hearing:**

- 2.1 **Public Hearing Re: Proposed Capital Improvement Plan (CIP) FY2013-2018.** In accordance with Section 7.7 of the City Charter, a Public Hearing on the proposed Capital Improvement Plan for FY2013-2018 will take place on Monday evening at 7:00 p.m. At that time, I have requested that staff make a PowerPoint presentation giving the public an overview of the proposed Capital Plan for the aforementioned years. In addition, I will have copies available of the summary pages for the public, as well as the capital expenditures that will be proposed in the FY2013 budget. Also, a copy of the Capital Plan is on our web page (www.cityofportsmouth.com).

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 the budget to the City Council. I anticipate that I will be transmitting my proposed FY2013 budget to you on or about April 11, 2012. Given that projected date, I am suggesting the City Council adopt the proposed Capital Improvement Plan at your March 19th City Council meeting. In accordance with the Charter, you could adopt the CIP no later than your April 2nd meeting. [Please bring your Capital Improvement Plan with you.](#) If you need another copy, please let me know.

I would suggest that action on this matter be taken at the March 19th City Council meeting, at which time I will recommend adoption of the CIP with any appropriate amendments.

Consent Agenda:

1. **Request for Licenses to install Projecting Signs.** [Attached](#) under Section X of the Agenda are the following requests for projecting sign licenses ([see memorandums from Rick Taintor, Planning Director](#)):

- Heidi Archibald, owner of The Colour Bar for property located at 86 Pleasant Street
- Jay Schadler, owner of Jay Schadler Studio for property located at 82 Fleet Street.
- Mark McNabb, owner of 82-86 Congress LLC for property located at 25 Chestnut Street.

I would recommend the City Council move to approve the aforementioned Projecting Sign Licenses as recommended by the Planning Director and, further, authorize the City Manager to execute License Agreements for these requests. Action on this matter should take place under Section X of the Agenda.

2. **Request for Approval of Pole License.** Attached under Section X of the Agenda is the following request for a PSNH Pole License Agreement #63-0528 (see attached memorandum from Tom Richter, Engineering Technician, Public Works Department):

- a) License for one pole located at the intersection of State Street and Cass Street. This pole is being moved in conjunction with the City's Sewer Separation Cass Street Area Contract.

I would recommend the City Council move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes. Action on this matter should take place under Section X of the Agenda.

City Manager's Items Which Require Action:

1. **Policy Regarding Use of City Property for Sidewalk Cafes Providing Alcohol Service.** As you know, during the 2011 season the City Council allowed the pilot use of City property in the downtown for two sidewalk cafes providing alcohol service -- Popovers on the Square and The District (formerly known as Pesce Italian Kitchen + Bar). The purpose of the pilot was to determine the public benefit and efficacy of such sidewalk café operations. Each of the two establishments operated under an Area Service Agreement that specified certain terms and conditions of operation and design.

As I have begun to receive requests for the coming season from a number of establishments, I have drafted for your consideration the [attached policy](#) regarding the use of City property for sidewalk cafes providing alcohol service.

I would recommend the City Council move to take this matter up for action at the March 19th City Council meeting.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on February 21, 2012. In addition, this now can be found on the City's website.
2. **Economic Development Commission Agenda and Draft Minutes.** For your information, [attached are the Economic Development Commission Agenda](#) for Friday, March 9, 2012 and [the draft minutes](#) of the February 10, 2012 meeting.