

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: TUESDAY, SEPTEMBER 4, 2012 TIME: 7:00PM

AGENDA

- 6:00PM ANTICIPATED “NON-MEETING” WITH COUNSEL RE: LITIGATION - RSA 91-A:2 I (c)

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

PRESENTATION

1. Presentation to Retiring Police Chief David “Lou” Ferland

- V. ACCEPTANCE OF MINUTES *(There are no minutes on for action this evening)*

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.330 – NO PARKING
– TANNER COURT

- VIII. APPROVAL OF GRANTS/DONATIONS

(There are no items under this section of the agenda)

- IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Acceptance of Petition and First reading of Resolution Authorizing a Bond Issue of up to One Million Six Hundred Thousand Dollars (\$1,600,000.00) to Pay for the Reconstructing of Commerce Way, and to Pay for all Costs Incidental and Related Thereto.

- B. Second reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Tanner Court

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A Request for License from Jessica Todd owner of Jessica Todd Salon, for property located at 33 Deer Street for a projecting sign on a new bracket (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Jessica Todd owner of Jessica Todd Salon for a projecting sign at property located at 33 Deer Street on a new bracket and, further, authorize the City Manager to execute License Agreements for this request***)

Planning Director's Stipulations:

- ***The licenses shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting signs, 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 signs, 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***

- B. Request for License from Carla Kienzle owner of Ten Thousand Villages, for property located at 87 Congress Street for 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 Carla Kienzle owner of Ten Thousand Villages for a projecting sign at property located at 87 Congress Street on an existing bracket and, further, authorize the City Manager to execute License Agreements for this request***)

Planning Director's Stipulations:

- ***The licenses shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting signs, 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 signs, 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***

- C. Request for License from Ed Szczepanik owner of Alex & Ani, for property located at 104 Congress Street for 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 Ed Szczepanik owner of Alex & Ani for a projecting sign at property located at 104 Congress Street on an existing bracket and, further, authorize the City Manager to execute License Agreements for this request***)

Planning Director's Stipulations:

- ***The licenses shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting signs, 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 signs, 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 Approval of Pole License to install/replace 1 pole located on Maplewood Avenue (***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***)

- E. *Acceptance of Donation to the Coalition Legal Fund
- Town of Rye - \$5,000.00

(Anticipated action – move to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund)

- F. Letter from Barbara Massar, Pro Portsmouth, requesting permission to hold First Night Portsmouth 2013 on Monday, December 31, 2012 (***Anticipated action – move to refer to the City Manager with power***)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Request from Deborah Bouchard-Smith, Scarecrows of the Port, seeking permission to install 30 scarecrows downtown on Friday, October 12, 2012 through Thursday, November 1, 2012

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items Which Require Action Under Other Sections of the Agenda

1. First Reading of Proposed Resolution and Ordinance Amendments:
 - 1.1 Acceptance of Petition and First reading of Resolution Authorizing a Bond Issue of up to One Million Six Hundred Thousand Dollars (\$1,600,000.00) to Pay for the Reconstructing of Commerce Way, and to Pay for all Costs Incidental and Related Thereto (**Action on this matter should take place under Section IX of the Agenda**)
2. Public Hearing/Second Reading of Proposed Resolution and Ordinance Amendments:
 - 2.1 Public Hearing/Second Reading of Proposed Ordinance Amendment to Chapter 7, Article III, Section 7.330 – No Parking – Tanner Court (**Action on this matter should take place under Section IX of the Agenda**)

City Manager's Items Which Require Action

1. Approval of Proposed Employment Agreement for Deputy Chief of Police Corey MacDonald
2. Proposed Agreement between Trustees of the Trust Fund and Prescott Park Arts Festival
3. Request for First Reading of Proposed Bonding Resolutions Re: Citywide and School Facilities Improvements
 - a) Resolution for Bond Authorization of up to \$2,267,000.00 for FY13 Citywide, Bridge, Street and Sidewalk Improvements
 - b) Resolution for Bond Authorization of up to \$500,000.00 for FY13 for School Facilities Improvements
4. Proposed Expansion of the Downtown Overlay District

Informational Items

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

B. MAYOR SPEAR

1. Appointment to be Voted:

Trees and Public Greenery Blue Ribbon Committee

- Dennis Souto to the Trees and Public Greenery Blue Ribbon Committee

C. COUNCILOR LOWN

1. Housekeeping Ordinance Amendments

D. COUNCILOR DWYER

1. Request for First Reading of Ordinance Re: Downtown High Occupancy Meter Zones
(Sample motion – move to authorize the City Manager to bring back for first reading the attached proposed Ordinance at the September 17, 2012 City Council meeting)

2. *Middle School Update

E. COUNCILOR SMITH

1. Parking and Traffic Safety Committee – Shari Donnermeyer

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

**Indicates Verbal Report*


INFORMATIONAL ITEMS

(There are no items under this portion of the agenda)

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 30, 2012
To: Honorable Mayor Eric Spear and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on September 4, 2012 City Council Agenda

6:00 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.

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Items Which Require Action Under Other Sections of the Agenda:

1. First Reading of Proposed Resolution and Ordinance Amendments:

1.1 Acceptance of Petition and First Reading of a Resolution Authorizing a Bond Issue of up to \$1.6 Million Dollars (\$1,600,000) To Pay For The Reconstructing Of Commerce Way, And To Pay For All Costs Incidental And Related Thereto.

As you are aware, the City conducted a public hearing on the petition from Commerce Way LLC for a Conditional Road Layout and Betterment Assessment in accordance with the process described in RSA 231:28 *Conditional Layout for Existing Private Rights of Way* at the August 20, 2012 City Council meeting.

The *Conditional Layout for Existing Private Rights of Way and Betterment Assessments Against Abutters and Those Served*, is a mechanism by which the cost of improvements to a private roadway is financed by a general obligation bond issued by the city and repaid by assessments on the private property owners served by the road (in this case, the building owners along Commerce Way). 100% of the bond and road improvement costs are paid by abutting property owners. Security for the bond repayment is in the form of liens against the abutting properties which have the same status as a property tax lien.

RSA 231:28 requires a ten day period following the public hearing, in which abutters or those served by the road may object to the process. If a majority of abutters do not object, the City Council accepts the Petition and moves forward with the standard

process to issue a general obligation bond. After this step is completed, the City proceeds with solicitation of bids and the construction of the proposed road improvements. At an appropriate time, the road will be conveyed by deed to the City and will become a city street.

The ten day period has now expired and there have been no petitions against layout of the road and completion of the betterment assessment. Therefore, the City is now able to accept the Petition from Commerce Way LLC for a Conditional Road Layout and Betterment Assessment and begin the bond resolution process ([see Petition for Conditional Layout of an Existing Private Right-of-Way known as Commerce Way, With Betterment Assessments, Pursuant to RSA 231:8 and RSA 231:28-30](#)).

In accordance with the process described above, I am bringing forward for first reading the [attached proposed Resolution](#) authorizing the Bonding of up to \$1.6 million dollars (\$1,600,000) to pay for the reconstructing of Commerce Way, and to pay for all costs incidental and related thereto.

I would recommend the City Council move the following two motions:

- 1) *Move to accept the Petition from Commerce Way LLC for a Conditional Road Layout and Betterment Assessment, and*
- 2) *Move to pass first reading and schedule a public hearing and adoption of the proposed bonding resolution as presented at the September 17th City Council meeting. Action on this item should take place under Section IX of the Agenda.*

2. **Public Hearing/Second Reading Proposed Resolution and Ordinance Amendments:**

- 2.1 **Public Hearing/Second Reading of Proposed Ordinance Amendment to Chapter 7, Article III, Section 7.330 – No Parking – Tanner Court.** As a result of the August 20th 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 III, Section 7.330 – No Parking – Tanner Court. As you are aware, the Parking and Traffic Safety Committee recommended this proposed Ordinance amendment in their minutes of May 10, 2012. This ordinance would make parking adjustments on Tanner Court made necessary by the redevelopment project at 51 Islington Street.

I would recommend the City Council move to pass second reading and schedule third and final reading of the proposed Ordinance amendment, as presented, at the September 17, 2012 City Council meeting. Action on this matter should take place under Section IX of the Agenda.

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 attached memorandums from Rick Taintor, Planning Director):

- Jessica Todd, owner of Jessica Todd Salon for property located at 33 Deer Street
- Carla Kienzle, owner of Ten Thousand Villages for property located at 87 Congress Street
- Ed Szczepanik, owner of Alex & Ani, for property located at 104 Congress 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. **Acceptance of Donation to the Coalition Legal Fund.** The City has received a check from the Town of Rye in the amount of \$5,000.00 donating funds to the Coalition Legal Fund, which will be utilized to continue our fight to eliminate the statewide property tax.

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

City Manager's Items Which Require Action:

1. **Approval of Proposed Employment Agreement for Deputy Chief of Police Corey MacDonald.** The Portsmouth Police Commission has reached an agreement (see attached) with Corey MacDonald to serve as the Deputy Police Chief. The contract is for a five (5) year term, with a starting salary of Grade 24, Step C which is \$91,956 on the City's Wage/Salary Schedule for Non-Union Employees.

I would recommend that the City Council approve the Employment Agreement between Corey MacDonald and the Portsmouth Board of Police Commissioners for a 5-year term commencing on September 1, 2012 and ending on August 31, 2017.

2. **Proposed Agreement between Trustees of the Trust Fund and Prescott Park Arts Festival.** Attached is a proposed operating Agreement between the Trustees of the Trust Fund and the Prescott Park Arts Festival, which needs to be ratified by the City Council. Robert Sullivan, City Attorney, will answer any questions the City Council may have regarding this matter.

I would recommend the City Council move to ratify the operating Agreement between the Trustees of the Trust Fund and the Prescott Park Arts Festival, as presented.

3. **Request for First Reading of Proposed Bonding Resolutions Re: Citywide and School Facilities Improvements.** I am requesting that the City Council authorize the City Manager to bring back for first reading at your September 17th City Council meeting **the attached Bonding Resolutions** of up to Two Million Seven Hundred Sixty-Seven Thousand Dollars (\$2,767,000) for the FY 2013 – 2018 Capital Improvement Projects. The following list identifies two separate resolutions:

a) **Resolution for Bond Authorization of up to \$2,267,000 for FY13 Citywide, Bridge, Street and Sidewalk Improvements.**

- Downtown Sidewalk Replacement Program \$700,000.00

This project involves the replacement of the sidewalks on Daniel Street from Market Square to the Wright Avenue Parking Lot. The existing sidewalks are made of concrete, asphalt and brick in some locations and are in poor condition due to wear and tear and age. Work will include resetting of granite curbing, new brick walking surface, period lighting and landscaping where appropriate. This project will tie together similar work previously completed on adjoining streets.

- Sagamore Creek Bridge Replacement \$367,000.00

This project involves funding the construction of the replacement of the Sagamore Creek Bridge on Rte 1A. Included with the bridge replacement is the reconstruction of the roadway approaches from Shaw Road to Rte 1B/Rte 1A intersection. Current schedule has project bidding in May-June 2013 with actual construction starting August 2013 through November 2014. Funding requested is for matching funds for federal/state grants.

- McDonough Street Area Improvements Project \$400,000.00

This project is at the request of the Neighborhood Association to have new sidewalks and traffic calming measures installed throughout the McDonough Street Area, and it provides funding for Phase 3 of the project. The main purpose of this project is to enhance safety for the residents and others who travel through this area on foot, by bicycle or motor vehicle. The work includes water, sewer, storm drainage, paving, curbing, sidewalks and associated landscaping.

- Aldrich Road Traffic Safety Improvements \$300,000.00

Aldrich Road has been identified as a high traffic connector between Middle Street and Islington Street which are both major arterial streets. This project is to construct traffic calming methods such as curbing, reduction of travel widths and intersection realignment. These improvements will slow traffic speeds, discourage through traffic and increase pedestrian safety in the corridor.

- Pease International Tradeport Roadway Rehabilitation \$500,000.00

Per the Municipal Services Agreement between the City and the Pease Development Authority, the City shall provide Public Works services in the non-airfield area of the Tradeport. These services include maintaining and repairing roads, streets and sidewalks. These funds will provide for rehabilitation of roadway infrastructure within the Tradeport similar to the program conducted upon the roadway system in the remaining sections of the City.

- b) **Resolution for Bond Authorization of up to \$500,000 for FY13 for School Facilities Improvements:** The School Department has maintenance responsibilities for seven buildings with over 600,000 square feet of space. These funds will be utilized for the following facility upgrades:

- Replacement of the older sections of the high school roof, not replaced under previous projects, which are now leaking.
- Elementary school computer lab building infrastructure improvements to keep pace with newer technology upgrades.
- Replacement of the existing boiler at New Franklin School with a new energy efficient model providing a healthier student environment and energy savings.

I would recommend that the City Council move the following motions:

- 1) *Authorize the City Manager to bring back for first reading a Bond Resolution for Citywide Improvements in the amount of up to \$2,267,000 at the September 17, 2012 City Council meeting.*
- 2) *Authorize the City Manager to bring back for first reading a Bond Resolution for School Facilities Improvements in the amount of up to \$500,000 at the September 17, 2012 City Council meeting.*

Please note that Bonding Resolutions require two readings and a public hearing and two-thirds vote of the City Council.

4. **Proposed Expansion of the Downtown Overlay District.** As you will recall, at the July 16th meeting I presented a proposal from the Planning Board to amend the Zoning Map to expand the Downtown Overlay District (DOD). At that meeting, the Council raised several concerns about the inclusion of certain parcels in the DOD and referred this back to staff to respond to those concerns and make any appropriate changes. At the August 6th meeting, the Council voted to postpone consideration of first reading to September 4th in order to give staff sufficient time to address these issues.

In that additional staff time is needed to complete the additional work, and the Council has referred to the Planning Board a smaller expansion of the DOD to include just the City-owned parcel at 143 Daniel Street, it is recommended that further consideration of the larger DOD expansion be deferred until after the rezoning and disposition of 143 Daniel Street has been completed.

Therefore, I would ask that the Council postpone consideration of this matter until after action has been taken on the separate proposal for rezoning of 143 Daniel Street.

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 20, 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 the upcoming meeting on Friday, September 7, 2012 and the [draft meeting minutes](#) of June 1, 2012.