

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, AUGUST 19, 2013 TIME: 6:00PM

AGENDA

- **6:00PM – WORK SESSION WITH HISTORIC DISTRICT COMMISSION**

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

PROCLAMATION

1. Richard Winslow, III

PRESENTATION

1. Wastewater Treatment Plant Update – Suzanne Woodland, Assistant City Attorney and Terry Desmarais, City Water and Sewer Engineer

V. ACCEPTANCE OF MINUTES – AUGUST 5, 2013

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, ARTICLE 5 – DIMENSIONAL AND INTENSITY STANDARDS ARE HERE BY AMENDED AS FOLLOWS:

- SECTION 10.531 – TABLE OF DIMENSIONAL STANDARDS – BUSINESS AND INDUSTRIAL DISTRICTS, MAXIMUM STRUCTURE DIMENSIONS – STRUCTURE HEIGHT, CBA 45' OR 3 STORIES, WHICHEVER IS LESS; CBB 45' OR 3 STORIES, WHICHEVER IS LESS;
- SECTION 10.535 – EXCEPTION TO DIMENSIONAL STANDARDS IN THE CENTRAL BUSINESS DISTRICTS, BY INSERTING A NEW SECTION 10.535.13: INCREASED BUILDING HEIGHT BY CONDITIONAL USE PERMIT

(The public hearing was continued at the August 5, 2013 meeting to the August 19, 2013 City Council meeting)

VIII. APPROVAL OF GRANTS/DONATIONS

- A. *Acceptance of Donation for Bench in Triangle Park - \$1,433.33 – Friends of the South End (***Sample motion – move to accept the donation from the Friends of the South End for a bench in Triangle Park, as presented***)

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Proposed Ordinance amending various sections of Chapter 7, Vehicles, Traffic Parking Omnibus Ordinance
- B. Second reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards, are here by Amended as follows:
- Section 10.531 – Table of Dimensional Standards – Business and Industrial Districts, Maximum Structure Dimensions – Structure Height, CBA 45' or 3 Stories, which ever is less; CBB 45' or 3 Stories, which ever is less;
 - Section 10.535 – Exception to Dimensional Standards in the Central Business Districts, by Inserting a New Section 10.535.13: Increased Building Height by Conditional Use Permit

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Chris Curtis, The Music Hall, requesting permission to close Chestnut Street throughout the weekend of September 20, 2013 – September 22, 2013 for the Telluride by the Sea film festival (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Allison Brownell, Susan G. Komen Race for the Cure, requesting permission to hold the Race for the Cure on Saturday, May 10, 2014 (***Anticipated action – move to refer to the City Manager with power***)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from JerriAnne Boggis, Portsmouth Black Heritage Trail, requesting permission to hold a parade on Wednesday, August 28, 2013 from 3:00 p.m. – 4:00 p.m. from Middle Street to Chestnut Street

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 Omnibus Ordinance (***Action on this item should take place under Section IX of the Agenda***)
2. Public Hearing of Proposed Ordinance:
 - 2.1 Public Hearing and Second Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards are here by Amended as follows:
 - Section 10.531 – Table of Dimensional Standards – Business and Industrial Districts, Maximum Structure Dimensions – Structure Height, CBA 45’ or 3 Stories, which ever is less; CBB 45’ or 3 Stories, which ever is less;
 - Section 10.535 – Exception to Dimensional Standards in the Central Business Districts, by Inserting a New Section 10.535.13: Increased Building Height by Conditional Use Permit (***Action on this matter should take place under Section IX of the Agenda***)

City Manager’s Items Which Require Action

1. Brewster Street Boarding House Permit Extension

Informational Items

1. Events Listing
2. Helicopter School at Pease
3. Status of Doble Army Reserve Center

B. MAYOR SPEAR

1. Appointment to be Voted:
 - Stephen Scott Gerrato – Taxi Commission (Taxicab Representative)
2. *Establish Work Session Re: Transportation (***Sample motion – move to hold a Work Session prior to the regular City Council meeting on September 16, 2013 at 6:15 p.m.***)

C. COUNCILOR SMITH

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the August 8, 2013 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the Parking and Traffic Safety Committee meeting of August 8, 2013***)

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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


INFORMATIONAL ITEMS

1. Notification that the Historic District Commission Minutes of the January 2, 2013 meeting are available on the City's website for your review
2. Notification that the Historic District Commission Minutes of the January 23, 2013 meeting are available on the City's website for your review
3. Notification that the Site Review Technical Advisory Committee Minutes of the July 30, 2013 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: August 16, 2013
To: Honorable Mayor Eric Spear and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on August 19, 2013 City Council Agenda

6:00 p.m.

Work Session:

1. **Historic District Commission.** As you will recall, at the June 17, 2013 City Council meeting, the Council voted to schedule a Work Session with the Historic District Commission. The Work Session is scheduled for 6:00 p.m. on Monday evening. Attached is an agenda for the work session.

Presentation:

1. **Wastewater Treatment Plant Update.** On Monday evening, Suzanne Woodland, Assistant City Attorney and Terry Desmarais, City Water and Sewer Engineer, will give an update to the City Council regarding the construction of the new Wastewater Treatment Plant on Peirce Island.

Acceptance of Grants and Donations:

1. **Acceptance of Donation for Bench in Triangle Park.** The Friends of the South End have made a donation to the City in the amount of \$1,433.33 for a bench in Triangle Park at the corner of Marcy/Pleasant/South Mill Streets.

I would recommend that the City Council move to accept the donation from the Friends of the South End for a bench in Triangle Park, 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 Omnibus Ordinance.** As a result of the August 5th City Council meeting, under Section IX of the Agenda, I am bringing back for first reading the attached proposed changes to Chapter 7, Vehicles, Traffic Parking Omnibus Ordinances that were either implemented by the Parking and Traffic Safety Committee for testing during the last year or are a part of ongoing improvements to the Vehicles, Traffic and Parking Ordinance and are forwarded to the City Council for approval as an Omnibus Ordinance. The changes are highlighted in red.

I would recommend that the City Council move to pass first reading and schedule a public hearing and second reading on the proposed Ordinance, as presented, at the September 3, 2013 City Council meeting. Action on this matter should take place under Section IX of the Agenda.

2. Public Hearing of Proposed Ordinance:

- 2.1 **Public Hearing and Second Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 5 – Section 10.531 – Table of Dimensional Standards – Business and Industrial Districts, Maximum Structure Dimensions – Structure Height, CBA 45’ or 3 Stories, whichever is less; CBB 45’ or 3 Stories, whichever is less, and Section 10.535 – Exception to Dimensional Standards in the Central Business Districts, by inserting a New Section 10.535.13: Increased Building Height by Conditional Use Permit (The public hearing was continued at the August 5, 2013 meeting to the August 19, 2013 City Council meeting).** As you will recall, at the August 5th City Council meeting, the public hearing on this matter was left open in order for the Planning Board to continue its review on this proposed Ordinance (see attached original Ordinance).

As you are aware, on Thursday, August 15th, the Planning Board acted on the City Council referral regarding the draft building height zoning ordinance amendment. At that meeting, the Board unanimously approved a version of the ordinance that incorporated comments from the City Council’s discussion on this ordinance, the joint work session of the Planning Board and HDC as well as the Public Hearing at the Planning Board. The ordinance approved by the Planning Board included a height limit of 50 feet or 4-1/2 stories, which ever is less in CBB, and 45 feet or 3-1/2 stories, which ever is less, for the CBA district. The version approved by the Planning Board included the ability to increase the building height to 50 feet in CBA and 60 feet in CBB through a conditional use permit through the HDC. The Planning Board refined the criteria to be used by the HDC in granting the Conditional Use permit and also included several

definitions required by the amendment. The complete language of the amended Planning Board's version is attached on blue paper.

Prior to the public hearing, Rick Taintor, Planning Director, will be making a presentation regarding this proposed Ordinance and amendments.

The City Council may take the following actions:

- 1) *Move to approve the Ordinance as presented, or;*
- 2) *Move to amend the proposed Ordinance in whole or in part as recommended by the Planning Board as follows:*
 - A. In Section 10.531 (Table of Dimensional Standards – Business and Industrial Districts), in the column headed “CBA,” change “3 stories” to “3½ stories.”
 - B. In Section 10.531 (Table of Dimensional Standards – Business and Industrial Districts), in the column headed “CBB,” change “45’ or 3 stories” to “50’ or 4½ stories.”
 - C. Replace the proposed Section 10.535.13 in its entirety with the following:

10.535.13 Increased Building Height by Conditional Use Permit

Within the CBA and CBB districts, the Historic District Commission may grant a conditional use permit to allow an increase in building height above the maximum structure height specified in Section 10.531, up to a maximum of 50 feet in the CBA district or 60 feet in the CBB district, only if the proposed building and site design positively contribute to the context, quality, and overall historic character of the neighboring properties and the district as a whole, including:

- Publicly accessible open space areas such as widened sidewalks, plazas, pocket parks, playgrounds or other significant public open space areas;
- Underground parking in lieu of surface parking;
- The use of high-quality building materials in the building design including, but not limited to: slate or copper roofing; copper gutters and downspouts; restoration brick; granite sills, lintels, foundations, stoops and steps; and wood windows along the façade elevation;
- Significant scaling elements in the building design such as increased setbacks, stepbacks, reduced footprint and volume, the use of pitched roof forms, banding, quoining and other massing techniques to maintain a pedestrian scale along the façade;

- Significant restoration or reconstruction of a “focal” or “contributing” building;
- Permanent protection of a significant view corridor.

D. In Article 15 – Definitions, Section 10.1530 – Terms of General Applicability, insert the following new terms and definitions:

Story

That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. It is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters. For the purpose of determining the number of stories in a building, a story above grade plane shall count as a full story. (See also: building height, grade plane, half story, and story above grade plane)

Half Story

A story immediately below a roof in which the floor area with a ceiling height of 7 feet or more is not greater than 50 percent of the total floor area of the story below. Any exterior wall of a half story shall be set back at least 15 feet from any building wall of a lower story facing a street or public right of way.

Story Above Grade Plane

Any story having its finished floor surface entirely above grade plane, or in which the finished surface of the floor next above is more than 6 feet above grade plane, or more than 12 feet above the finished ground level at any point.

Action on this matter should take place under Section IX of the Agenda.

City Manager’s Items Which Require Action:

1. **Brewster Street Boarding House Permit Extension.** As you are aware, the 21 Brewster Street Boarding House Permit will expire on Tuesday, August 20th. Attorney Dan Hoefle, on behalf of Brian Hogan, owner, will be in attendance at Monday’s meeting. I would recommend that the City Council suspend the rules to allow Attorney Hoefle to present the proposed application for the extension of this permit. City staff has completed an inspection of the property on Monday, August 12, 2013 and have found that Mr. Hogan is in compliance with all health and building issues.

Attached is a draft of the Board House Permit, as well as an e-mail from Karina Quintans, Coordinator, Islington Street Neighborhood, with their comments, regarding this matter.

I would recommend the City Council move the following motions:

1) Move to suspend the rules to allow Attorney Dan Hoefle on behalf of Brian Hogan to present the Boarding House application for 21 Brewster Street; and subsequent to the presentation;

2) Move to extend the Boarding House Permit for 3 months (permit to expire on November 19, 2013) with any stipulations that the City Council may determine after Attorney Hoefle's presentation.

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 5, 2013. In addition, this now can be found on the City's website.
2. **Helicopter School at Pease.** For your information, on Thursday, August 15, 2013, the Pease Development Authority (PDA) Board of Directors tabled the proposal for Seacoast Helicopters, LLC to locate a school and sightseeing operation at Portsmouth International Airport at Pease. There will be a Noise Compatibility Committee meeting on Monday, August 26th at 6:30 p.m. in the PDA Offices at 55 International Drive to receive public input regarding this matter and the PDA Board has a final vote on this matter on August 29, 2013 at 8:00 a.m.
3. **Status of Doble Army Reserve Center .** As you will recall, at its August 5th meeting, the City Council authorized me to submit a Public Benefit Conveyance (PBC) application to the National Park Service (NPS) for the Paul A. Doble Army Reserve Center. The application was submitted and the application has been approved by the NPS. The Park Service has also requested that the Department of the Army assign the property to the Park Service so it can move forward with a property transfer to the City.

I am hopeful that this new development, along with the Department of Housing and Urban Development's approval of our reuse plan, will further strengthen the City's position as it relates to the federal government's property disposal process. As you know, the Army has indicated that it no longer has the disposal authority under the BRAC law to transfer the property. However, due to the City's long efforts to secure this property under the BRAC law process and this week's development of achieving a formal approval by the Park Service for the use of the property as a recreation facility (Senior Center), I am hopeful that the Army's position will be revisited and clarified.

I will continue to work with our Congressional delegation on this issue and I have made them aware of the recent approval of the City's application. I will continue to update you on this issue.