

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, SEPTEMBER 16, 2013 TIME: 6:00PM

## AGENDA

- 6:00PM – WORK SESSION RE: TRANSPORTATION POLICY ISSUES

I. CALL TO ORDER [7:00PM or thereafter]

II. ROLL CALL

III. INVOCATION

IV. PLEDGE OF ALLEGIANCE

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

VI. PUBLIC COMMENT SESSION

VII. APPROVAL OF GRANTS/DONATIONS

*(There are no items under this section of the Agenda)*

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

A. First reading of Proposed Ordinance amending Chapter 8, Article III, "Street Trees," is hereby deleted in its entirety and replaced with the following amendment to Chapter 1 Article IV by creating a Trees & Public Greenery Committee and the adoption of a new Article III entitled Portsmouth Urban Forestry Ordinance of Chapter 8 ***(Sample motion – move to pass first reading and schedule a public hearing and second reading on the proposed Ordinance, as presented, at the October 7, 2013 City Council meeting)***

B. First reading of Proposed Ordinance amending Chapter 7, Article II, Section 7.222 – Maximum Number of Taxicabs amended to increase the number of medallions from twenty-five (25) to twenty-eight (28) ***(Sample motion – move to pass first reading and schedule a public hearing and second reading on the proposed Ordinance, as presented, at the October 7, 2013 City Council meeting)***

C. First reading of Proposed Ordinance amending Chapter 7, Article X, Section 7.1000 E – Towing – Tow Zones – Limited Parking Areas: City Streets – be amended that any vehicle or object remaining in the same location in any uncontrolled on-street parking space for more than 24 hours in the Central Business Districts A and B as bounded and shown on the City of Portsmouth Zoning Map, or more than 72 hours in any other location in the City, may be removed in the manner provided in Section 7.1000 D ***(Sample motion – move to pass first reading and schedule a public hearing and second reading on the proposed Ordinance, as presented, at the October 7, 2013 City Council meeting.)***

- D. Third and final reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards, are hereby Amended as follows: ***(Sample motion – move to pass third and final reading on the proposed Ordinance, as presented)***
- Section 10.531 – Table of Dimensional Standards – Business and Industrial Districts, Maximum Structure Dimensions – Structure Height, CBA 45’ or 3 ½ Stories, which ever is less; CBB 45’ or 3 ½ 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
  - Section 10.1530 – Terms of General Applicability, add new Terms and Definitions
- E. Third and final reading of Proposed Ordinance amending various sections of Chapter 7, Vehicles, Traffic Parking Omnibus Ordinance ***(Sample motion – move to pass third and final reading on the proposed Ordinance, as presented)***
1. Amend: Chapter 7, Article VI – Truck Loading/Unloading Zones, Section 7.601 Truck Loading/Unloading Zones Established
  2. Amend: Chapter 7, Article VI – Truck Loading/Unloading Zones, Section 7.602 Truck Loading/Unloading Zones (24 Hours)
  3. Amend: Chapter 7, Article II – Taxicabs, Section 7.224 Taxicab Stands
  4. Add: Chapter 7, Article III, Section 7.328 Utilization Of Multiple Parking Spaces
  5. Amend: Chapter 7, Article IV: Section 7a.408 Taxicab Stands Designated
  6. Add: Chapter 7, Article III, Limited Parking – Three Hours: Section 7.328: Limited Parking – Three Hours
  7. Amend: Chapter 7, Article IV, Off-Street Parking Areas
  8. Amend: Chapter 7, Article III, Traffic Ordinance, Limited Time Parking, Section 7.327: Limited Parking – Two Hours
  9. Amend: Chapter 7, Article IVA, Bus Stops, Taxicab Stands And Horse Drawn Carriage And Article IV, Off-Street Parking Areas
  10. Amend: Chapter 7, Article IV, Off-Street Parking Areas
  11. Amend: Chapter 7, Article IX, Penalties, Forfeitures And Separability, Section 7.901: Penalties
  12. Amend: Chapter 7, Article III, Traffic Ordinance, Section 7.321: Snow Emergency Parking Ban

13. Amend: Chapter 7, Article III, Traffic Ordinance, Section 7.326: Limited Parking – Fifteen Minutes

14. Amend: Chapter 7, Article IV, Off-Street Parking Areas, Section 7.401, Definitions

## IX. CONSENT AGENDA

### ***A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA***

- A. Request for Approval of Pole License to install 6 poles associated with the Maplewood Avenue By-Pass Bridge project. These poles are located on Maplewood Avenue and Cutts 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***)
- B. Request for Approval of Pole License to install 1 pole located on Aldrich Road (***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***)
- C. Letter from Zhana Morris, The Music Hall requesting parking meter permit for the Music Hall's 2013-2014 Season (***Anticipated action – move to refer to the City Manager with power***)
- D. Letter from David Topham, Granite State Wheelmen, Inc. requesting permission to conduct 40<sup>th</sup> annual Tri-State Seacoast Century bicycle ride on September 21 and 22, 2013 (***Anticipated action – move to refer to the City Manager with power***)

## X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Eric Chinburg, Sandy Brook Corporation, requesting that Laurel Court be accepted as a public way (*See attached memo from Planning Director Rick Taintor*)

## XI. 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 Ordinance Amendments:
  - 1.1 Ordinance amending Chapter 8, Article III, "Street Trees," is hereby deleted in its entirety and replaced with the following amendment to Chapter 1 Article IV by creating a Trees & Public Greenery Committee and the adoption of a new Article III entitled Portsmouth Urban Forestry Ordinance of Chapter 8 (***Action on this matter should take place under Section VIII of the Agenda***)

- 1.2 Ordinance amending Chapter 7, Article II, Section 7.222 – Maximum Number of Taxicabs amended to increase the number of medallions from twenty-five (25) to twenty-eight (28) **(Action on this matter should take place under Section VIII of the Agenda)**
  - 1.3 Ordinance amending Chapter 7, Article X, Section 7.1000 E – Towing – Tow Zones – Limited Parking Areas: City Streets – be amended that any vehicle or object remaining in the same location in any uncontrolled on-street parking space for more than 24 hours in the Central Business Districts A and B as bounded and shown on the City of Portsmouth Zoning Map, or more than 72 hours in any other location in the City, may be removed in the manner provided in Section 7.1000 D **(Action on this matter should take place under Section VIII of the Agenda)**
2. Third and Final Reading of Proposed Resolution and Ordinance Amendments:
- 2.1 Third and Final Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards are hereby Amended as follows:
    - Section 10.531 – Table of Dimensional Standards – Business and Industrial Districts, Maximum Structure Dimensions – Structure Height, CBA 45’ or 3 ½ Stories, which ever is less; CBB 45’ or 3 ½ 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
    - Section 10.1530 – Terms of General Applicability, add new Terms and Definitions **(Action on this matter should take place under Section VIII of the Agenda)**
  - 2.2 Third and Final Reading of Proposed Omnibus Ordinance **(Action on this item should take place under Section VIII of the Agenda)**

**Informational Items**

1. Events Listing
2. Update on Local Government Center Health/Dental Insurance Reimbursement

**B. MAYOR SPEAR**

1. Appointment to be Considered:
  - Ronald Zolla – Reappointment to the Economic Development Commission
2. Appointments to be Voted:
  - Elizabeth A. Moreau to the Planning Board as a regular member
  - T. Stephen McCarthy – Reappointment to the Building Code Board of Appeals
3. Resignation – Karina Quintans from the Planning Board effective October 1, 2013

**C. ASSISTANT MAYOR LISTER**

1. \*Update on Senior Committee

**D. COUNCILOR NOVELLINE CLAYBURGH**

1. Proposal in accordance with RSA 261-153, Paragraph VI. (a) to collect an optional \$5.00 fee for the motor vehicle improvement fund (See attached statute) ***(Sample motion – move to refer to the Fee Committee for report back)***

**XII. MISCELLANEOUS/UNFINISHED BUSINESS**

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

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


**INFORMATIONAL ITEMS**

*(There are no items under this section 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:** September 12, 2013  
**To:** Honorable Mayor Eric Spear and City Council Members  
**From:** John P. Bohenko, City Manager   
**Re:** City Manager's Comments on September 16, 2013 City Council Agenda

---

***Work Session:***

6:00 p.m.

1. **Transportation Policy Issues.** On Monday evening, the City Council will hold a work session regarding transportation policy issues. Attached under the work session section of the Agenda, are an agenda and strategies matrix. Also, City staff will be giving a presentation on some of the salient issues as it relates to this matter.

***Items Which Require Action Under Other Sections of the Agenda:***

1. **First Reading of Proposed Resolution and Ordinance Amendments:**
  - 1.1 **First Reading of Proposed Ordinance amending Chapter 8, Article III, "Street Trees," is hereby deleted in its entirety and replaced with the following amendment to Chapter 1, Article IV by creating a Trees & Public Greenery Committee and the adoption of a new Article III entitled Portsmouth Urban Forestry Ordinance of Chapter 8.** As a result of the September 3rd City Council meeting, under Section VIII of the Agenda, I am bringing back for first reading the attached proposed aforementioned Ordinance.

As you are aware, the Trees & Public Greenery Committee has been working with the City Attorney on revisions to the City Tree Ordinance, and Peter Loughlin, Chairman of the Trees & Public Greenery Committee, is requesting that the City Council adopt this proposed Ordinance.

The proposed Ordinance would replace the current Trees and Public Greenery Ordinance with the following:

1. The creation of a Trees and Public Greenery Committee consisting of nine (9) voting members primarily selected by the Mayor and City Council but with the addition of the City Manager, Tree Warden, Public Works Foreman in charge of tree maintenance or their respective designees, all ex-officio.
2. The Committee will advise and assist the City's Tree Warden (to be described below) with respect to virtually anything involving the, "City's Urban Forest". This function will include dealing with arborcultural, horticultural, aesthetic and public safety concerns as well as the preparation of an annual report summarizing all activity relating to the ordinance for the City Council.
3. The ordinance would create the position of "Tree Warden" who shall be a member of the City's administrative staff appointed by the City Manager.
4. The stated purpose of the ordinance is based upon the finding that, "the value of urban trees can hardly be overstated".
5. An explicit responsibility of the City under the ordinance will be to:
  - a. Establish on public lands and public rights of way, as many trees as can be maintained in a suitable and aesthetically pleasing way.
  - b. Encourage the planting of trees that will represent a diversity of species and age classes and which are not invasive.
  - c. Regulate and enforce the planting and maintenance of trees on City property.
  - d. Establish limits on the amount of disturbance of trees that may take place on public property.
6. The Tree Warden created by the ordinance will be provided with, "responsibility for the enforcement of this ordinance and all applicable provisions of state law" this authority will include the authority to institute legal proceedings operating through the City's Legal Department.
7. The Tree Warden will have both the authority and the duty to order, "trimming, spraying, preservation and/or removal of trees upon property owned or controlled by the City, or in any City right-of-way" in a manner consistent with the ordinance.
8. The ordinance will expressly prohibit planting, cutting, pruning or taking virtually any action with respect to trees located in any public right-of-way, public park or other public property without approval of the Tree Warden.

9. The ordinance will authorize persons to remove trees in the public right-of-way or public places, however, the action cannot be taken absent a permit issued by the Tree Warden after a public hearing to be held by the Committee.
10. An important new provision in the ordinance would be to authorize the Committee to enforce tree related provisions which may be placed on private property site plans or the public rights-of-way by the Planning Board.
11. Violations of the proposed ordinance would subject the violator to a fine of up to \$1,000.00 per violation and make that person liable to the City for all costs of replacing any damages to City property or any other damages allowable by law.

*I would recommend the City Council move to pass first reading and schedule a public hearing and second reading on the proposed Ordinance, as presented, at the October 7, 2013 City Council meeting. Action on this matter should take place under Section VIII of the Agenda.*

- 1.2 **First Reading of Proposed Ordinance amending Chapter 7, Article II, Section 7.222 – Maximum Number of Taxicabs amended to increase the number of medallions from twenty-five (25) to twenty-eight (28).** As a result of the September 3<sup>rd</sup> City Council meeting, under Section VIII of the Agenda, I am bringing back the attached proposed aforementioned Ordinance.

*I would recommend the City Council move to pass first reading and schedule a public hearing and second reading on the proposed Ordinance, as presented, at the October 7, 2013 City Council meeting. Action on this matter should take place under Section VIII of the Agenda.*

- 1.3 **First Reading of Proposed Ordinance amending Chapter 7, Article X, Section 7.1000 E – Towing – Tow Zones – Limited Parking Areas: City Streets - be amended that any vehicle or object remaining in the same location in any uncontrolled on –street parking space for more than 24 hours in the Central Business Districts A and B as bounded and shown on the City of Portsmouth Zoning Map, or more than 72 hours in any other location in the City, may be removed in the manner provided in Section 7.1000 D.** As a result of the September 3<sup>rd</sup> City Council meeting, under Section VIII of the Agenda, I am bringing back the attached proposed aforementioned Ordinance and map delineating area to be covered.

*I would recommend the City Council move to pass first reading and schedule a public hearing and second reading on the proposed Ordinance, as presented, at the October 7, 2013 City Council meeting. Action on this matter should take place under Section VIII of the Agenda.*



2. **Third and Final Reading of Proposed Resolution and Ordinance Amendments:**

- 2.1 **Third and Final Reading of Omnibus Ordinance.** As a result of the September 3<sup>rd</sup> City Council meeting, under Section VIII of the Agenda, I am bringing back for third and final reading the attached proposed changes to Chapter 7, Vehicles, Traffic Parking Omnibus Ordinance that were either implemented by the Parking and Traffic Safety Committee for piloting 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 annually. The changes are highlighted in red.

*I would recommend that the City Council move to pass third and final reading on the proposed Ordinance, as presented. Action on this matter should take place under Section VIII of the Agenda.*

- 2.2 **Third and Final 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 3½ Stories, whichever is less; CBB 45’ or 3½ 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; Section 10.1530 Terms of General Applicability Add New Terms & Definitions.**

As you will recall, at the September 3 City Council meeting, the Council held a Public Hearing on a proposed amendment to the Zoning Ordinance regarding building heights in the Central Business districts. Following the Public Hearing, the Council voted to amend the proposed Ordinance by designating the Historic District Commission as the body to grant a conditional use permit for increased building height, in place of the Zoning Board of Adjustment as had been voted at the August 19 Public Hearing. The Council then voted to pass second reading on the amended Ordinance, and to schedule third reading at the September 16 City Council meeting. Attached is the proposed Ordinance.

*I would recommend that the City Council move to pass third reading on the proposed Ordinance, as amended, at the September 16, 2013 City Council meeting. Action on this matter should take place under Section VIII of the Agenda.*

***Informational Items:***

1. **Events Listing.** For your information, attached is a copy of the Events Listing updated after the last City Council meeting on September 3, 2013. In addition, this now can be found on the City’s website.

2. **Update on Local Government Center Health/Dental Insurance Reimbursement.**  
As you are aware, the Local Government Center (LGC) was ordered to return a portion of surplus from the health and dental insurance. For your information, the City has received this return of surplus for health/dental insurance for general government and schools in the total amount of \$2,087,000. As part of this settlement, the City will return an estimated \$692,000 to employees and retirees. Total amount to be placed in the health insurance stabilization fund is \$1,395,000. The money that has been placed in the stabilization fund will help reduce the cost of health and dental insurance in future fiscal years.