

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, DECEMBER 2, 2013 TIME: 7:00PM

AGENDA

- 6:30PM – ANTICIPATED “NON-MEETING” WITH COUNSEL REGARDING NEGOTIATIONS – RSA 91-A:2, I (b-c)

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

II. ROLL CALL

III. INVOCATION

IV. PLEDGE OF ALLEGIANCE

V. ACCEPTANCE OF MINUTES – OCTOBER 7, 2013 AND OCTOBER 21, 2013

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARINGS

A. ORDINANCE AMENDMENT CHAPTER 7, ARTICLE IV, SECTION 7.402 – AREAS ESTABLISHED, DESIGNATED AND DESCRIBED, OFF-STREET PARKING AREAS, ADD LEARY FIELD PARKING AREA, NOT TO EXCEED 72 HOURS AT ONE TIME

B. ORDINANCE AMENDMENTS TO THE ZONING ORDINANCE, ARTICLE 6 – OVERLAY DISTRICT, SECTION 10.630 – HISTORIC DISTRICT

VIII. APPROVAL OF GRANTS/DONATIONS

There are no items on under this section of the agenda

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

A. Second reading of Ordinance amending Chapter 7, Article IV, Section 7.402 – Areas Established, Designated and Described, Off-Street Parking Areas, Add Leary Field Parking Area, not to exceed 72 hours at one time

B. Second Reading on Proposed Amendments to the Zoning Ordinance, Article 6 – Overlay District, Section 10.630 – Historic District

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

A. Request for License from Kim Lively, owner of Lively Kids for property located at 133 Market 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 Kim Lively, owner of Lively Kids for a projecting sign at property located at 133 Market Street 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***

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

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

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items Which Require Action Under Other Sections of the Agenda

1. Public Hearing/Second Reading of Proposed Resolution and Ordinance Amendments:
 - 1.1 Public Hearing/Second Reading of Ordinance amending Chapter 7, Article IV, Section 7.402 – Areas Established, Designated and Described, Off-Street Parking Areas, Add Leary Field Parking Area, not to exceed 72 hours at one time ***(Action on this matter should take place under Section IX of the Agenda)***
 - 1.2 Public Hearing/Second Reading on Proposed Amendments to the Zoning Ordinance, Article 6 – Overlay District, Section 10.630 – Historic District ***(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 Fire Chief James B. Heinz
2. Lease of Greenleaf Recreation Center Re: Operation Blessing

Informational Items

1. Events Listing
2. Holiday Parade and Tree Lighting Ceremony

B. MAYOR SPEAR

1. Resignation – Bob Shouse from the Blue Ribbon Committee on Sustainable Practices

C. ASSISTANT MAYOR LISTER

1. Recommendation of City Council Evaluation Committee Re: Proposed Amendment to City Manager's Employment Agreement - ***Move to authorize the Mayor to execute Amendment to City Manager's Employment Agreement as follows:***
 - ***Upon notice from the Employee of his retirement, the City shall purchase an annuity for the benefit of the Employee in an amount equal to one month's salary (based on Employee's salary in effect at the time of Employee's retirement) multiplied by the Employee's total completed years of service with the City prior to the date of his retirement. For purposes of this section, the Employee will be considered to have retired when he provides notice of his voluntary termination of employment with the City for any reason.***
 - ***Further, that all other terms and conditions of the City Manager's Employment Agreement dated October 23, 2012 shall remain in full force and effect.***

D. COUNCILOR SMITH

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the November 14, 2013 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the Parking and Traffic Safety Committee meeting of November 14, 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 December 5, 2012 meeting are available on the City's website for your review
2. Notification that the Historic District Commission Minutes of the February 6, 2013 meeting are available on the City's website for your review
3. Notification that the Historic District Commission Minutes of the February 13, 2013 meeting are available on the City's website for your review
4. Notification that the Historic District Commission Minutes of the August 7, 2013 meeting are available on the City's website for your review
5. Notification that the Zoning Board of Adjustment Minutes of the July 24, 2012 and August 21, 2012 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: November 27, 2013
To: Honorable Mayor Eric Spear and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on December 2, 2013 City Council Agenda

6:30 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. **Public Hearing/Second Reading of Proposed Resolution and Ordinance Amendments:**

1.1 **Public Hearing/Second Reading of Ordinance amending Chapter 7, Article IV, Section 7.402 – Areas Established, Designated and Described, Off-Street Parking Areas, Add Leary Field Parking Area, not to exceed 72 hours at one time.** As a result of the November 18th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the attached proposed Ordinance amending Chapter 7, Article IV, - 7.402 Areas Established, Designated and Described, Off-Street Parking Areas, add Leary Field Parking Area, not to exceed 72 hours at one time.

In reviewing the minutes of the Parking and Traffic Safety Committee meeting of September 12, 2013 which were accepted by the City Council on October 7, 2013, City Attorney Robert Sullivan noted that the Committee wishes to proceed with establishing the parking area at Leary Field as a designated off-street parking area. The City Attorney discussed this matter with Committee Chairman Ken Smith and it was agreed that the best way to accomplish the Committee's goals would be to bring the required ordinance forward for first reading at the next available meeting of the City Council.

I would recommend the City Council move to pass second reading and schedule a third and final reading of the proposed Ordinance, as presented, at the December 16, 2013 City Council meeting. Action on this item should take place under Section IX of the Agenda.

1.2 **Public Hearing/Second Reading of Proposed Amendments to the Zoning Ordinance, Article 6 – Overlay Districts, Section 10.630 - Historic District.**

As a result of the November 18th City Council meeting, under Section VII of the Agenda, I am bringing for public hearing and second reading the attached proposed amendments to the Zoning Ordinance regarding administrative procedures for the Historic District, which have been requested by the Historic District Commission (HDC). The proposed amendments passed first reading and made the following changes:

1. Include a provision to allow for limited administrative approvals by City staff for very small projects such as field changes or minor changes to a previously approved Certificate of Approval. The purpose of this amendment is to reduce the HDC's caseload and thereby to free up meeting time and resources for reviewing larger, more complex projects.
2. Require applicants to submit electronic copies of plans, rendering and other application material for all projects requesting approval from the HDC. The purpose of this amendment is to enable the Planning Department to post such plans and associated materials on the City's web site for public viewing in advance of the meeting, and to facilitate presentations at work sessions and public hearings.
3. Require plans to be scaled to assist the HDC and members of the public in interpreting and evaluating proposed new buildings and modifications to existing buildings. In addition, require large projects (over 10,000 sq. ft. of new floor area) to submit an electronic or physical model of the proposed building. The purpose of this amendment is to assist the HDC and the public to evaluate the height and scale of the proposed building within the context of the surrounding neighborhood.
4. Include a provision to allow the HDC to approve small projects through a Consent Agenda process. The purpose of this amendment is to help expedite the review of small projects and to free up meeting time and resources for the review of larger, more complex applications.

The Planning Board held a public hearing on these proposed amendments at its meeting on November 21st. Following the public hearing, the Planning Board voted unanimously to recommend that the City Council enact the proposed amendments, with wording changes for clarification purposes and additions responding to comments at the hearing. The revised wording recommended by the Planning Board is presented in the attached green document titled "City Council Second Reading – December 2, 2013 – (Incorporating Changes

Recommended by the Planning Board at its Public Hearing on November 21, 2013).” Please note the revised wording is underlined in the green document.

Nick Cracknell, Principal Planner, will be available to answer any questions regarding this matter.

I would recommend the City Council move the following motions:

- 1) *Move to pass second reading and schedule a third and final reading at the December 16th City Council meeting.*
- 2) *Move to amend the Ordinance to include the Planning Board recommended changes as outlined in the attached green document.*

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

Consent Agenda:

1. **Request for License to Install Projecting Sign.** Attached under Section X of the Agenda is the following request for a projecting sign license (see attached memorandum from Rick Taintor, Planning Director):

- Kim Lively, Owner of Lively Kids for property located at 133 Market Street.

I would recommend the City Council move to approve the aforementioned Projecting Sign License as recommended by the Planning Director and, further, authorize the City Manager to execute the License Agreement for this request. 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 Fire Chief James B. Heinz.** The Fire Commission has approved a five year Tentative Employment Agreement to expire June 30, 2018 with James Heinz for Deputy Fire Chief (see attached Agreement).

Also, attached is a copy of a letter from Thomas Closson, City Negotiator, outlining the following major items in this agreement:

- **Term:** 5 Year agreement, expiring on June 30, 2018.
- **Initial Salary:** Grade 22, Step B of the City of Portsmouth Non-Union Salary Schedule (\$81,368.00 per annum).
- **COLA Adjustments:** On July 1st of each contract year, calculation based on the 10-year rolling CPI-U average.

- **Automobile:** Provision of an automobile suitable for the duties of Deputy Fire Chief, which because the Deputy Fire Chief is on-call at all times, may also be used for personal business.
- **Tuition Reimbursement:** Subject to budgetary constraints and prior approval by the Fire Chief and Fire Commission payment for the cost of tuition and textbooks for courses and/or classes that will provide for improved job performance.
- **Sick Leave:** The employee will be credited with previously accrued sick leave. The Employee shall accumulate sick leave without limitation and the City agrees to pay the Employee a sum equal to ninety percent (90%) of all unused sick leave upon his separation or retirement from the City.
- **Vacation Leave:** The Employee will be credited with previously accrued vacation days.

I would recommend that the City Council approve the Employment Agreement between James Heinz and the Portsmouth Fire Commission for a 5-year term expiring on June 30, 2018.

2. **Lease of Greenleaf Recreation Center Re: Operation Blessing.** As you may be aware, the City-owned Greenleaf Recreation Center on Greenleaf Avenue is currently leased to the Portsmouth Housing Authority (PHA). The lease expires in January 2014, and the PHA has indicated it is not going to request a renewal.

Per the National Park Service Federal Lands-to-Parks program, the property must be utilized as a recreation center open to the public. Attached is a proposal from Operation Blessing, Inc. a 501(c) 3 non-profit entity that assists families with primary needs such as food, clothing, furniture and household goods as well as operates a very active youth volunteer organization. In the letter, Operation Blessing has proposed becoming the new lessee for the Greenleaf Recreation Center and operating it as a recreation center and base its successful Adopt-A-Block program and other recreation related programs there. Operation Blessing is committed to working with other social service non-profits to ensure the recreation center is not duplicative of existing services and plans to retain the services currently offered by the PHA to its residents at the adjacent Wamesit Place family housing development.

This request is consistent with the recommendation put forth in the Recreation Needs Study and the proposed "Program of Utilization" (attached to the letter) will provide a benefit to the City in that it will retain a recreation center open to the public and assist in meeting the needs of local youth. In addition, Operation Blessing has committed to making the facility available to the existing users. The City would need to obtain final approval of the new agreement from the National Park Service. Please note that, due to a National Park Service procedural change, the instrument for this type of arrangement is now known as a "concession agreement" as opposed to a lease agreement.

It is my intent is to work closely with the Recreation Board and the Recreation Director on this matter if we move forward as requested.

At this time, I would recommend that the City Council authorize the City Manager to further explore a potential concession agreement (lease agreement) for the Greenleaf Recreation Facility with Operation Blessing, Inc. in close coordination with the Recreation Board and report back at a future 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 November 18, 2013. In addition, this now can be found on the City's website.
2. **Holiday Parade and Tree Lighting Ceremony.** As a reminder, I have attached a copy of the press release regarding the Holiday Parade and Tree Lighting Ceremony on Saturday, December 7, 2013.