

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, MAY 19, 2014 TIME: 7:00 PM

## AGENDA

- At 6:30PM, AN ANTICIPATED “NON-MEETING’ WITH COUNSEL RE: 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

### PRESENTATION

- 1. North End Vision

- V. ACCEPTANCE OF MINUTES – MARCH 3, 2014

- VI. PUBLIC COMMENT SESSION

- VII. APPROVAL OF GRANTS/DONATIONS

- A. \*Acceptance of Grant to Art-Speak
  - The Portsmouth Museum of Art (Catherine Sununu) \$ 100.00
  - Helene Mullaney (individual artist) \$ 25.00
  - Sarah Haskell (individual artist) \$ 25.00
  - Seacoast Repertory Theatre \$ 150.00
  - The Music Hall \$ 150.00
  - The New Hampshire Charitable Foundation \$5,000.00

*(Anticipated action – move to approve and accept the dues and grant money to Art-Speak, as listed)*

- VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Third reading and final reading of Proposed Amendment to Chapter 7, Article I, Section 7.103 – Parking and Traffic Safety Committee by the addition of one (1) alternate Committee Member *(Sample motion – move to pass third and final reading of the proposed Ordinance amendment, as presented)*

## IX. CONSENT AGENDA

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

- A. Letter from Mike Daboul, President, Seacoast Mavericks, requesting the installation of 30 outfield signs, 5 A-frame signs and a temporary storage trailer at Leary Field during the course of the season June 6<sup>th</sup> – August 7<sup>th</sup> (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Chris Pamboukes requesting permission to set up 1 or 2 stationary bicycles in downtown Portsmouth on any Sunday between June 1, 2014 – July 12, 2014 to begin a public awareness campaign for a community fundraising project Pedal For Power – 2000 miles for Solar (***Sample motion – move to refer to the City Manager with power (Vaughn Mall)***)
- C. Request for License from Philip Dube, owners of Off Piste for property located at 37 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 Philip Dube, owners of Off Piste on 37 Congress Street for a projecting sign at property located at 37 Congress Street and, further, authorize the City Manager to execute License Agreements 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, shall 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. Letter from Mike Young, Portsmouth Babe Ruth, requesting permission to place 10 outfield signs, approximately 4' x 6' (dark green with white lettering) on the outer perimeter fencing facing inwards towards Leary Field from May 17, 2014 – August 17, 2014 (***Sample motion – move to refer to the City Manager with power***)

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

- A. Letter from Attorney Christopher Hilson, representing Richard B. Ireland, Jr. regarding injuries sustained to both his dog, Carter and Mr. Ireland during a dog attack (***Sample motion – move to refer to the City Attorney for report back***)

- B. Letter from Jennifer Riley, One Love Brewery, requesting permission to sell sealed growlers of beer at the Farmer's Market (**Sample motion – move to authorize the City Manager to negotiate and execute an amendment to the Farmer's Market agreement with Seacoast Growers to allow for the sale of sealed growlers of beer by One Love Brewery**)

## XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

### A. CITY MANAGER

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

1. Third and Final Reading of Proposed Resolutions and Ordinances:
  - 1.1. Third and Final Reading for Proposed Amendment to Chapter 7, Article I, of the Ordinance Re: Parking and Traffic Safety Committee (**Action on this matter should take place under Section VIII of the Agenda**)

#### **City Manager's Items Which Require Action:**

1. Proposed Loan Re: Reconstruction of Prescott Park Docks
2. Report Back Re: Landscape Façade Peirce Island Waste Water Treatment Facility
3. Proposal for Mobile Vending
4. Report Back Re: Open Streets
5. Sale of Obsolete Parking Meters

#### **Informational Items**

1. Events Listing
2. Update Re: Presentation and Discussion with Cynthia Scarano, Executive Vice President of Pan Am Railways
3. Household Hazardous Waste Day, Saturday, May 31, 2014

### B. MAYOR LISTER

1. Appointments to be Considered
  - Paul Mandle to the Citywide Neighborhood Steering Committee
  - Dan Rawling to the Historic District Commission as a Regular Member
  - Rick Becksted, Jr. to the Historic District Commission as an Alternate
  - Tristan Law appointment to the Taxi Commission
2. \*Establish Work Session Re: Financial Disclosure (**Sample motion – move to establish a Work Session on June 9, 2014 at 6:00 p.m. to discuss Financial Disclosures**)

**C. ASSISTANT MAYOR SPLAINE**

1. Sea-3/Pan Am Response
2. \*Future of Our North Cemetery

**D. COUNCILOR LOWN**

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the April 10, 2014 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the April 10, 2014 Parking & Traffic Safety Committee meeting***)

**XII. MISCELLANEOUS/UNFINISHED BUSINESS**

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

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

*\*Indicates Verbal Report*


**INFORMATIONAL ITEMS**

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

**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:** May 15, 2014  
**To:** Honorable Mayor Robert J. Lister and City Council Members  
**From:** John P. Bohenko, City Manager   
**Re:** City Manager's Comments on May 19, 2014 City Council Agenda

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**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.

***Presentation:***

1. **North End Vision.** As you will recall, at your May 5th City Council meeting Councilor Morgan discussed under her name various questions regarding the expansion of the Character Districts, including the vision plan that the City's consultants will prepare based on the design charrette. Last year, the Council requested that Character-Based Zoning (also known as form-based zoning) be expanded to the North End of the downtown and along Islington Street to the West End.

A key component of the process of generating a form-based zoning ordinance is an intensive multi-day design workshop or "charrette" where consultants, staff, residents and other interested parties work together to identify planning and design issues. When the goal is to encourage a significant change in the character of development (such as the North End former urban renewal area), the consultant team will usually generate a "vision plan" based on the charrette before drafting specific zoning regulations.

For the purpose of framing the Character-Based Zoning, the vision plan will illustrate the aspects of private development that the Zoning Ordinance can control, including the forms of buildings and the location of uses on parcels. In addition, a vision plan typically illustrates elements of the public realm, including public facilities, parks and other public spaces, and streetscape improvements. Additionally, transportation elements such as potential street and sidewalk connections and parking facilities will be identified.

With respect to transportation, the North End vision plan will incorporate relevant information from other ongoing City transportation projects. These include the Wayfinding

Program, the Bicycle and Pedestrian Plan, the Market Street Gateway Project, and the Downtown Parking Shuttle, among others.

As requested by the City Council, I have asked Nick Cracknell, Principal Planner, to review the planning process for these expanded areas. He will outline proposed areas to be included in the Character Zoning study, and review the anticipated timeline for carrying it out.

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

#### **1. Third and Final Reading of Proposed Resolutions and Ordinances.**

- 1.1 **Third and Final Reading for Proposed Amendment to Chapter 7, Article I of the Ordinances Re: Parking and Traffic Safety Committee.** As a result of the May 5<sup>th</sup> City Council meeting, under Section VIII of the Agenda, I am bringing back for third and final reading the [attached proposed Ordinance amending Chapter 7, Article I, Section 7.103 Parking and Traffic Safety Committee.](#)

As you are aware, the Parking and Traffic Safety Committee recommended this proposed Ordinance amendment in their minutes of February 13, 2014, which the City Council accepted at their meeting of March 3, 2014. This amendment to the Ordinance adds one (1) alternate Committee Member appointed by the Mayor and City Council.

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

### ***Acceptance of Grants and Donations:***

1. **Acceptance of Grant to Art-Speak.** Art-Speak requests that the following Charter Piscataqua Arts & Cultural Alliance Membership dues and grant money from the New Hampshire Charitable Foundation, which total \$5,450 be accepted by the City Council on behalf of Art-Speak. These funds are to go into Art-Speak's Alliance budget line item. They will be used to fund the Piscataqua Arts & Cultural Alliance, which will be a new program of Art-Speak.

➤ The Portsmouth Museum of Art (Catherine Sununu)	\$ 100
➤ Helene Mullaney (individual artist)	\$ 25
➤ Sarah Haskell (individual artist)	\$ 25
➤ Seacoast Repertory Theatre	\$ 150
➤ The Music Hall	\$ 150
➤ The New Hampshire Charitable Foundation	\$5,000

*I would recommend that the City Council move to approve and accept the membership dues and grant money to Art-Speak, as listed. Action on this matter should take place under Section VII of the Agenda.*

## ***Consent Agenda:***

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

- Philip Dube, owner of Off Piste for property located at 37 Congress 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 IX of the Agenda.*

## ***City Manager's Items Which Require Action:***

1. **Proposed Loan Re: Reconstruction of Prescott Park Docks.** As you are aware, the Trustees of the Trust Funds in their role as manager of Prescott Park and the Prescott Trust, operate and maintain a series of marine docking and pier structures in the Park. Currently, the South Dock is in need of replacement, a project that was identified in the FY 2014 Capital Improvement Plan. Each year maintenance and repair costs for the dock continue to grow and the facility is well past its useful life having last been replaced in the early-1980s. (See attached aerial map and floating dock plan.)

City staff have coordinated closely with the Trustees on addressing the needs of the docking facility and, along with Appledore Marine Engineering, have recommended full replacement of the docking structure. Along with the North Dock, the South Dock slips are rented to visitors April to November. Ten seasonal slips are available to Portsmouth residents who dock their boats there for the season.

In recognition that neither the Prescott Trust nor the Marine Maintenance Trust (MMT) can fund the replacement cost estimated to be \$668,000, the Trustees of Trust Funds have made a request for assistance, which is attached. The Trustees have requested to enter into an agreement with the City that permits up to \$720,000 be made available for completing this project. I would recommend that these funds come from Committed Fund Balance and that the funds be replenished from future revenues of the Marine Maintenance Trust as proposed by the Trustees. Based on current usage and trends the Trustees project that annual income from the docks with the improvements in place will be approximately \$60,000.

The final amount of the funds requested will be dependent on the winning bid for the project. It is important to note, that after the 2014 boating season, the MMT will have cash on hand that can be used towards the construction (estimated to be \$60,000). This will reduce the amount needed from Committed Fund Balance. The Trustees have committed to replenish these funds and confirmed that the MMT revenues will be sufficient to meet this obligation.

This financing structure has been used previously (in 1999) during the reconstruction of the North Pier project. That project, though smaller, resulted in a 13-year payback for a project that continues to serve the community.

*I recommend the City Council authorize the City Manager to enter into an agreement with the Trustees of Trust Funds under which up to \$720,000 will be expended from Committed Fund Balance for the purpose of replacing the South dock system in Prescott Park with the funds to be replenished by payments from the Marine Maintenance Trust as available.*

2. **Report Back Re: Landscape Façade Peirce Island Waste Water Treatment Facility.** On April 14, 2014, in a work session City staff requested City Council input regarding the height of the new Biologically Aerated Filters (BAF) treatment system. The new BAF will be located in the area of the existing Filter Building and will be visible from Route 1B (New Castle Avenue) from Shapleigh Island.

During the presentation two conceptual renderings were shown with the new BAF building at different heights. The height of the new building is important because of the visual and cost impacts. The renderings shown that evening were developed from different vantage points including the intersection of Marcy Street and New Castle Avenue, Pleasant Point and the west side of Shapleigh Island.

The first option was a new BAF building 25-ft above grade, which is 8-feet higher than the existing Filter Building. The other option was a new BAF building at 17-feet above grade, which is the same height as the existing Filter Building. This option would cost an additional \$5M (\$6.9M amortized over a 20 year bond at 3.75 % interest) to build. The additional cost is due to more rock excavation and an additional wastewater pump station to pump the water out of the new building. If this option were chosen it would require an additional 4.5% rate increase to cover the costs. There would also be long term operation and maintenance expenses associated with this option, which have been estimated at an additional \$18,000 per year. At the conclusion of the work session the Council requested the staff explore concepts that would soften the facade of the new building.

On May 19, 2014 City staff and the City's engineering consultant, AECOM, will present landscaping and screening alternatives and will recommend the most feasible alternative. This presentation will cover screening alternatives including architectural façades, planters built into the building, terracing against the building, green walls, vertical screenings (trellis), and native plantings. In addition to the potential screening alternative the staff will discuss the challenges associated with working in a confined area at the south end of Peirce Island in proximity of the tide line.

*Subsequent to the presentation on Monday, staff are recommending the City Council authorize the City Manager to:*

- 1) *Proceed with the 25' height option with alternatives as presented; or*
- 2) *Proceed with the 17' height option with an additional estimated cost of \$5 million and other additional operating costs.*



3. **Proposal for Mobile Vending.** The City has received a request from Michael Prete and Matthew Greco of The Kitchen Restaurant Group seeking to conduct mobile vending from a parking space on Hanover Street. [See attached letter request.](#)

In 2010, the Portsmouth City Council amended Chapter 6, Article XIII Section 6.1307 to limit vending from parking spaces. That ordinance set up an annual bidding process and a minimum bid amount of \$5,000 for the April 15 – November 15 season. Two potential vending locations were identified, one on State Street and one on Hanover Street. [See attached Hanover Street location.](#)

Earlier this year, the City advertised for bids to conduct vending from the designated parking spaces, Bid 62 – 14. No bids were timely received. The Kitchen was late submitting its bid documentation and therefore disqualified.

The Kitchen has a food truck that has been licensed by the Health Department. The owners have indicated their willingness to abide by the conditions and terms of the bid document and to work with the Health Department as may be necessary to ensure food safety. They are prepared to make payment of the minimum bid amount of \$5,000 (in two installments as described in the bid documents).

Had The Kitchen not missed the deadline for submittal of the bid, The Kitchen likely would have been issued a license to vend under the bid process. The City Council has the authority to remedy The Kitchen's untimeliness and to authorize the City Manager to negotiate and execute a license ([see attached](#)) to vend.

*The City Council may move to take either of the following actions:*

- 1) *Move to authorize the City Manager to negotiate and execute a license to permit The Kitchen to vend from the designated parking space on Hanover Street from 7:00 a.m. to not later than 11:00 p.m.; or*
- 2) *Move to deny the request and invite The Kitchen to bid in 2015 in accordance with the bid process.*

4. **Report Back Re: Open Streets.** In February, Peter Newbury, a representative of Seacoast Area Bike Routes (SABR), submitted a request to the City Council for permission to schedule an Open Streets event on Sunday, September 14, 2014 from noon to 4 p.m.

At the March 3<sup>rd</sup> City Council meeting, the Council referred the request to the City Manager for a report back prior to approving the event. Since the March 3<sup>rd</sup> Council meeting, Mr. Newbury has met with staff from the Department of Public Works, Police and Fire Departments, the School Department, Recreation Department, Health Department, and Planning Department and has accommodated and complied with their requests to add additional police enforcement along the route and ensure that the event complies with Health Department requirements. He has also modified the route to avoid scheduled road construction along Willard Ave. Staff has no other concerns about the operations of the event as proposed, but advised Mr. Newbury to do significant outreach to the neighborhoods through which the proposed route will travel.

Mr. Newbury met with the City-wide Neighborhood Committee to discuss the proposed event on March 11<sup>th</sup> and hosted a neighborhood meeting on April 29<sup>th</sup> at the Portsmouth Public Library. To advertise the public meeting, he mailed a postcard to every house along the proposed route, distributed them at the Papa Wheelies Bike Swap, and sent an email invitation to neighborhood leaders and associates.

He has reported to staff that the meetings were positive and supportive. As a result of the input from the meetings, he has revised the proposed event to locate any vendors at either ends of the route and not along the route. (See [attached updated request and event information.](#))

*I would recommend the City Council refer this to the City Manager with power.*

5. **Sale of Obsolete Parking Meters.** The City currently has 417 obsolete Duncan parking meters for disposal. These meters were removed from service beginning in July of 2007 as Pay & Display Meters were installed, and are no longer operable. These meters have value both as refurbished meters and scrap metal and believe to have a bundled value of more than \$500.00.

According to City Ordinance Section 1.505, any sale of property valued at or over \$500.00 must be authorized by the City Council and may be conducted by competitive bidding, public auction, or any other means authorized by a 2/3 vote of the City Council.

Due to the type of product, it is recommended that the best method of disposing these meters through the bid process is by utilizing an on-line bidding company, GovDeals, a bidding website for governments to dispose of surplus equipment. The GovDeals site will reach a larger population of interested bidders, therefore receiving more competitive bids.

*I would recommend the City Council authorize the City Manager to proceed with the disposal of the meters are recommended.*

### ***Informational Items:***

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on May 5, 2014. In addition, this can be found on the City's website.
2. **Update Re: Presentation and Discussion with Cynthia Scarano, Executive Vice President of Pan Am Railways.** As you are aware, the Newington Planning Board will be meeting on Monday night, May 19th to vote on the Sea-3 application. This is the same night that Cynthia Scarano, Executive Vice President of Pan Am Railways was to make a presentation to the City Council. Because of this conflict, she will be unable to attend our meeting. I will work with her to try and find a mutually convenient time for her to meet with the City Council.

3. **Household Hazardous Waste Day, Saturday, May 31, 2014.** Please find [attached](#) the notice regarding the Household Hazardous Waste Day being held May 31, 2014 at the Department of Public Works Facility from 8:00 a.m. to 12:00 p.m.