

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, AUGUST 4, 2014 TIME: 6:15PM

## AGENDA

- 6:15PM – WORK SESSION RE: POLICE DEPARTMENT SPACE NEEDS STUDY – POLICE COMMISSION, POLICE CHIEF DUBOIS AND CONSULTANTS LAVALLEE/BRENSINGER ARCHITECTS – WILL GATCHELL AND IAN REEVES

- I. CALL TO ORDER
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE

### PRESENTATION

1. Report Back from Fire Chief Steve Achilles Re: Rail Transportation of Liquid Propane Gas

### V. ACCEPTANCE OF MINUTES – APRIL 21, 2014

### VI. PUBLIC COMMENT SESSION

### VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Police Department Grant and Donation
  - Acceptance of Grant from Seacoast CrimeStoppers to underwrite the 2015 Citizen Police Academy and a portion of the 2014 Academy - \$6,600.00
  - Acceptance of Donation from William Mortimer in support of the Portsmouth Police Explorers - \$25.00

*(Sample motion – move to accept and approve the grant and donation to the Portsmouth Police Department, as listed)*

### VIII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, ARTICLE 15, DEFINITIONS, SECTION 10.1530 – TERMS OF GENERAL APPLICABILITY, ARE HEREBY AMENDED BY ADDING THE FOLLOWING NEW TERM AND DEFINITION: BUILDING FOOTPRINT – THE HORIZONTAL AREA OF A LOT COVERED BY THE BUILDING, EXCLUDING (A) GUTTERS, CORNICES AND EAVES PROJECTING NOT MORE THAN 30 INCHES FROM A VERTICAL WALL, AND (B) STRUCTURES LESS THAN 18 INCHES ABOVE GROUND LEVEL SUCH AS DECKS AND PATIOS

## IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Ordinance amending Chapter 7, Vehicles, Traffic and Parking Omnibus Ordinance (***Sample motion – move to pass first reading on the proposed Ordinance amendment and schedule a public hearing and second reading at the August 18, 2014 City Council meeting***)
- B. First Reading of Ordinance amending Chapter 10, Article 15, Section 10.1530 by the addition of the following new definition – Commercial Gambling Operation
- C. First Reading of Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.440, Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, by changing use #1.41 (Multifamily dwelling, 3 or 4 dwelling units) from “P” (permitted) to “S” (special exception) in the General Residence A and B (GRA & GRB) districts (***Sample motion – move to pass first reading and schedule a public hearing and second reading on the proposed Ordinance amendment at the September 22, 2014, City Council meeting, and further, recommend that this matter be referred to the Planning Board for a report back to the City Council***)
- D. Second Reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 15, Definitions, Section 10.1530 – Terms of General Applicability, are hereby amended by adding the following new term and definition: Building Footprint – The horizontal area of a lot covered by the building, excluding (a) gutters, cornices and eaves projecting not more than 30 inches from a vertical wall, and (b) structures less than 18 inches above ground level such as decks and patios (***Sample motion – move to pass second reading on the proposed Ordinance amendment and hold third and final reading at the August 18, 2014 City Council meeting***)

## X. CONSENT AGENDA

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

- A. Request for License from Bruce Dupont, owner of Menemsha Blues Portsmouth for property located at 1 Congress 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 Bruce Dupont, owner of Menemsha for a projecting sign at property located at 1 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***

- B. Request for License from Gale Gertler, owner of Southwest Passage for property located at 214 State 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 Gale Gertler, owner of Southwest Passage for a projecting sign at property located at 214 State 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***

- C. Request for License from Sara Sullivan, owner of Sara Sullivan, for property located at 24 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 Sara Sullivan, owner of Sara Sullivan, for a projecting sign at property located at 24 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. Request for License from Chi Zhang, owner of Dozo Restaurant, for property located at 96 State 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 Chi Zhang, owner of Dozo Restaurant, for a projecting sign at property located at 96 State 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***

- E. \*Acceptance of Membership Dues to Art-Speak

- Strawberry Banke Museum - \$100.00
- NH Art Association - \$125.00
- Portsmouth Public Library - \$150.00
- Raka - \$150.00

***(Anticipated action – move to accept and approve the Charter Membership Dues to the Piscataqua Arts & Culture Alliance, a program of Art-Speak, as listed)***

- F. \*Acceptance of Donations to Art-Speak

- Tim Allison - \$25.00
- Joyce G. Volk - \$25.00
- Elaine S. Krasker - \$50.00
- Jameson S. French - \$100.00
- Dana and Shaula Levenson - \$100.00
- Coughlin, Rainboth, Murphy & Lown - \$150.00

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

- G. Letter from Alyssa Salmon, Big Brothers Big Sisters of the Greater Seacoast, requesting permission to close Pleasant Street on Saturday, June 20, 2015 from 3:00 p.m. – 6:00 p.m. for the Annual Stiletto Sprint (Rain date of Sunday, June 21, 2015) ***(Anticipated action – move to refer to the City Manager with power)***

- H Letter from Sister Mary Agnes, St. Charles Children's Home, requesting permission to hold the 18<sup>th</sup> Annual Run with the Cause 5k Road Race at Pease International Tradeport on September 1, 2014 at 9:00 a.m. (***Anticipated action – move to refer to the City Manager with power***)

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

- A. Letter from The Citywide Neighborhood Steering Committee, requesting that a policy be put in place that would include communication with the State of New Hampshire Department of Transportation regarding sound barriers during any construction project (***Sample motion – move to refer to Mayor Lister to work with NHDOT Commissioner with a report back to the City Council***)
- B. Letter from Bernard Pelech, Attorney, Law Office of Wholey & Pelech, regarding Request for Restroation of Involuntarily Merged Lots Pursuant to RSA 674:39aa (2 Sylvester Street/Tax Map 232, Lot 35) (***Sample motion – move to refer to City staff for review and report back at the August 18, 2014 City Council meeting***)

## XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICALS

### A. CITY MANAGER

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

1. First Reading of Proposed Resolution and Ordinance Amendments:
  - 1.1 First Reading of Ordinance amending Chapter 7, Vehicles, Traffic and Parking Omnibus Ordinance (***Action on this item should take place under Section IX of the agenda***)
  - 1.2 First Reading of Ordinance amending Chapter 10, Article 15, Section 10.1530 by the addition of the following new definition – Commercial Gambling Operation (***Action on this item should take place under Section IX of the agenda***)
  - 1.3 First Reading of Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.440, Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, by changing use #1.41 (Multifamily dwelling, 3 or 4 dwelling units) from “P” (permitted) to “S” (special exception) in the General Residence A and B (GRA & GRB) districts (***Action on this item should take place under Section IX of the agenda***)

2. Public Hearing/Adoption of Proposed Resolution and Ordinance Amendments:
  - 2.1 Second Reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 15, Definitions, Section 10.1530 – Terms of General Applicability, are hereby amended by adding the following new term and definition: Building Footprint – The horizontal area of a lot covered by the building, excluding (a) gutters, cornices and eaves projecting not more than 30 inches from a vertical wall, and (b) structures less than 18 inches above ground level such as decks and patios  
**(Action on this item should take place under Section IX of the agenda)**

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

1. Request to Establish City Council Retreat
2. Rescission of Bond Authorization for Various Projects
3. Request for First Reading Re: Various FY15 Capital Plan Projects
4. Report Back Re: Portsmouth Cottage Senior Hospital Authorizing CDBG Loan
5. Polling Hours for September 9, 2014 State Primary Election
6. Request for a Encumbrance Permit (Sidewalk Closure) for Construction Project at 185 Austin Street for an Additional Period of Six Months
7. Request for First Reading of Proposed Ordinance Amendment to Chapter 7, Article II, Section 7.230 - Prohibited Conduct by Taxi Medallion Holders or Owners
8. Report Back Re: Architectural Design Review Outside the Historic District

**Informational items**

1. Events Listing
2. Report Back from Chairs of Planning Board, Historic District Commission and Board of Adjustment Re: Workload
3. Report Back Re: Helicopters
4. Update on Report Back Re: Peirce Island Archaeological Study
5. Status of Transfer Re: Paul A. Doble Army Reserve Center
6. Report Back Re: Request for Enhanced Lighting of Commercial Alley
7. Update on the Schedule for the Phase 2 of the Character-Based Zoning Project
8. Report Back Re: Off-Street Parking Requirements for Conference/Convention/Event Centers
9. Report Back Re: Building and Development Compliance with Land Use Boards
10. Report Back Re: Enforcement of Land Use Regulation Violations

**B. MAYOR LISTER**

1. Appointment to be Considered:
  - Cristy Cardoso – reappointment to the Citywide Neighborhood Committee

2. Appointments to be Voted:
  - Robert Capone to the Cable Television and Communications Commission
  - Matthew Cardin as an Alternate to the Conservation Commission
  - Vincent Lombardi as an Alternate to the Historic District Commission
  - Mary Lou McElwain as an Alternate to the Parking and Traffic Safety
  - Lisa Louttit to the Recreation Board
  - Jeremiah Johnson as an Alternate to the Zoning Board of Adjustment
3. Acceptance of Resignations:
  - Alicia Weaver resignation from Citizens Advisory Committee
  - John Weaver resignation from Library Board of Trustees
4. Letter from Police Commission Chairman John F. Golumb response to motorcycle noise and speeding enforcement throughout the City
5. Letter from Governor Margaret Hassan Re: Proposed Expansion of Sea-3 Facility in Newington
6. Letter to Governor Margaret Hassan Re: Sound Barriers

**C. ASSISTANT MAYOR SPLAINE**

1. \*Resolution Supporting Market Basket Employees
2. \*Atlantic Heights Emergency Access
3. \*Unattended Buildings Status Review

**D. COUNCILOR KENNEDY**

1. \*Noise Issues Citywide

**E. COUNCILOR LOWN**

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

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

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

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

*\*Indicates Verbal Report*

## **INFORMATIONAL ITEMS**

1. \*Notification that the minutes of the January 28, 2014, March 18, 2014 and April 29, 2014 Zoning Board of Adjustment meetings are now available on the City's website

*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:** July 31, 2014

**To:** Honorable Mayor Robert J. Lister and City Council Members

**From:** John P. Bohenko, City Manager 

**Re:** City Manager's Comments on August 4, 2014 City Council Agenda

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6:15 p.m.

***Work Session:***

1. **Police Department Space Needs Study.** As you may be aware, the Police Department has been conducting a Space Needs Study funded through the Capital Improvement Plan and was conducted in late 2013 and early 2014. The project was completed by Lavallee/Brensinger Architects from Manchester, New Hampshire working with Architects Design Group from Winter Park, Florida. On Monday evening, the Police Commission and Police Chief DuBois along with Will Gatchell of Lavallee/Brensinger and Ian Reeves, President of Architects Design Group will be making a presentation to the City Council regarding this Police Space Needs Study ([see attached report](#)). As the City Council will recall during the budget process, the City Council asked that prior to any additional work being done on this project that a presentation be made to the City Council to update the Council regarding the work completed to date.

Subsequent to the presentation, the architect along with the Police Commission and the Chief will answer any questions regarding the Study as well as the next steps.

***Presentation:***

1. **Report Back from Fire Chief Steve Achilles Re: Rail Transportation of Liquid Propane Gas.** As requested by the City Council, Fire Chief Steve Achilles will be making a presentation on the Fire Department's assessment of the rail transportation of liquid propane gas. [Attached for your information is an agenda outlining Chief Achilles' presentation.](#)

## ***Acceptance of Grants/Donations:***

1. **Acceptance of Police Department Grant and Donation.** Attached [under Section VII of the Agenda is a memorandum](#), dated June 25, 2014, from John F. Golumb, Chairman of the Portsmouth Police Commissioners, and Police Chief Stephen J. DuBois, requesting that the City Council approval the following grant and donation:
  - a) A grant in the amount of \$6,600 from Seacoast CrimeStoppers to underwrite the 2015 Citizen Police Academy and a portion of the 2014 academy.
  - b) A donation in the amount of \$25.00 from Mr. William Mortimer in support of the Portsmouth Police Explorers.

*I would recommend that the City Council move to approve and accept the grant and donation to the Portsmouth Police Department. Action on this matter should take place under Section VII of the Agenda.*

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

### **1. First Reading of Proposed Resolutions and Ordinances:**

- 1.1 **First Reading of Ordinance Amending Chapter 7 Re: Parking Omnibus.** As a result of the July 14, 2014 City Council meeting, under Section IX of the Agenda, I am bringing back for first reading the [attached annual omnibus set of ordinances](#) recommended by the Parking and Traffic Safety Committee. This year the omnibus consists of seven ordinances, three that address loading zones and other ordinances that address a three hour parking limit, a one-way street, a taxi stand and no parking.

On March 29, 2000, the City Council adopted Ordinance #4-2000 under Chapter 7, Article 1, Section 7.103 of the Vehicles, Traffic and Parking Ordinance. This ordinance was adopted in order to be more responsive to the changing parking needs of the downtown. Before its adoption, it often took three readings of the City Council to simply change a parking space from a 2-hour time restriction to a 15-minute one. This process would often take 4-6 months to complete.

The current ordinance authorizes the Parking Traffic and Safety Committee to recommend temporary parking and traffic regulations to the City Council for its approval in the form of its monthly meeting minutes. Once the City Council approves these minutes, the temporary regulations are in effect for a period not to exceed one year. During that year the City Council and the public have the benefit of seeing how a temporary regulation works before adopting it as a permanent change to the parking ordinance. These temporary regulations are presented at one time to the Council for its consideration.

The [attached amendments to Chapter 7, Vehicles, Traffic and Parking for the Council's](#) consideration summarize the temporary parking regulations implemented by the Parking and Traffic Safety Committee between June 3, 2013 and June 2, 2014.

In addition, as requested by Councilor Kennedy, [attached is a report back regarding the parking impact from Omnibus Ordinance changes.](#)

*I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed ordinance amendments to be incorporated into Chapter 7, Vehicle, Traffic and Parking Ordinance, as presented, at the August 18th City Council meeting. Action on this item should take place under Section IX of the Agenda.*

- 1.2 **First Reading of Proposed Gambling Ordinance.** As a result of the April 21, 2014 City Council meeting, under Section IX of the Agenda, I am bringing back for first reading the [attached proposed Ordinance amending Chapter 10, Article 15, Section 10.1530](#) by the addition of a new definition - Commercial Gambling Operation. This proposed Ordinance is a request of Councilor Thorsen.

*City Council action is required on this matter.*

- 1.3 **First Reading of Proposed Ordinance Amending Chapter 10 – Zoning Ordinance, Section 10.440, Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, by changing use #1.41 (Multifamily dwelling, 3 or 4 dwelling units) from “P” (permitted) to “S” (special exception) in the General Residence A and B (GRA & GRB) districts.** [Attached under Section IX of the Agenda is a proposed Ordinance to amend the Table of Uses](#) in the Zoning Ordinance. This proposed amendment has been drafted by the Planning Department staff to address a concern regarding infill multifamily development in primarily single-family neighborhoods.

The existing zoning for the General Residence A (GRA) and General Residence B (GRB) zoning districts allows three-family and four-family dwellings as of right. Although such buildings are subject to site plan review by the Planning Board, there is no requirement for a public hearing on whether adding density on a particular site is appropriate for the surrounding neighborhood. Due to citizen concern regarding infill developments in predominantly single-family neighborhoods, the Planning Department has proposed that the Zoning Ordinance be amended to require a Special Exception from the Zoning Board of Adjustment for the development of a 3- or 4-unit dwelling in the GRA or GRB district.

The Planning Department is undertaking a preliminary assessment of these two zoning districts in order to determine the potential extent of this issue. If the City Council votes to move this matter forward, this analysis will be completed and

provided to the Planning Board for information as it considers the proposed ordinance amendment and makes its recommendation to the Council.

*I recommend the City Council move to pass first reading and schedule a public hearing and second reading on the proposed Ordinance amendment at the September 22, 2014, City Council meeting, as presented, and further, I recommend that this matter be referred to the Planning Board for a report back to the City Council. Action on this item should take place under Section IX of the Agenda.*

2. **Public Hearing/Second Reading of Proposed Resolutions and Ordinances:**

- 2.1 **Public Hearing/Second Reading of Proposed Ordinance Amending Chapter 10 – Zoning Ordinance, Article 15 – Definitions, Sections 10.1530 Re: Building Footprint.** As a result of the June 16<sup>th</sup> City Council meeting, under Section VIII of the Agenda, [attached is a proposed Ordinance](#) amending Chapter 10 – Zoning Ordinance, Article 15 – Definitions, Sections 10.1530 regarding Building Footprint.

At the April 3, 2014 Planning Board meeting, the Board voted to recommend that the City Council amend the Zoning Ordinance, Section 10.1530 – Terms of General Applicability, by inserting a new definition of “building footprint” as proposed:

**Building footprint**

The horizontal area of a lot covered by the building, excluding  
(a) gutters, cornices and eaves projecting not more than 30 inches from a vertical wall, and (b) structures less than 18 inches above ground level such as decks and patios.

*I recommend the City Council move to pass second reading and schedule third and final reading on the proposed Ordinance amendment at the August 18, 2014 City Council meeting, as presented. Action on this item should take place under Section IX of the Agenda.*

**Consent Agenda:**

1. **Request for License to Install Projecting Signs.** [Attached](#) under Section X of the Agenda are requests for projecting sign licenses ([see attached memorandums from Rick Taintor, Planning Director](#)):
- Bruce Dupont, Owner of Menemsha Blues Portsmouth for property located at 1 Congress Street.
  - Gale Gertler, Owner of Southwest Passage for property located at 214 State Street.
  - Sara Sullivan, Owner for property located 24 Congress Street.
  - Chi Zhang, Owner of Dozo Restaurant for property located at 96 State 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 these License Agreements for this request. Action on this item should take place under Section X of the Agenda.*

2. **Acceptance of Membership Dues to Art-Speak.** Art-Speak has received the following Charter Membership Dues to the Piscataqua Arts & Cultural Alliance, a program of Art-Speak:

• Strawbery Banke Museum	\$100.00
• NH Art Association	\$125.00
• Portsmouth Public Library	\$150.00
• Raka	\$150.00

The membership dues total \$525.00 and Art-Speak requests that the City Council accept the donations on behalf of Art-Speak.

*I would recommend that the City Council move to approve and accept the membership dues to the Piscataqua Arts & Cultural Alliance, a program of Art-Speak, as listed. Action on this item should take place under Section X of the Agenda.*

3. **Acceptance of Donations to Art-Speak.** Art-Speak has received the following donations in the amount of \$450.00 and Art-Speak requests that the City Council accept the following donations on behalf of Art-Speak:

• Tim Allison	\$ 25.00
• Joyce G. Volk	\$ 25.00
• Elaine S. Krasker	\$ 50.00
• Dana and Shaula Levenson	\$100.00
• Jameson S. French	\$100.00
• Coughlin, Rainboth, Murphy & Lown	\$150.00

*I would recommend that the City Council move to approve and accept the donations to Art-Speak, as listed. Action on this item should take place under Section X of the Agenda.*

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

1. **Request to Establish City Council Retreat.** I am requesting that the City Council schedule a Retreat on Saturday, October 4, 2014. The Retreat will be held in the Levenson Room at the Portsmouth Public Library, and it will start at 9:00 a.m. to 3:00 p.m.

*I recommend the City Council move to establish a City Council Retreat on Saturday, October 4, 2014 from 9:00 a.m. to 3:00 p.m., in the Levenson Room at the Portsmouth Public Library.*

2. **Rescission of Bond Authorization for Various Projects.** As you may be aware, unissued loan authorizations remain on the City's financial statements indefinitely until such time that they are borrowed or rescinded. As a part of financial housekeeping, the city should rescind the following unissued water and sewer bond/loan authorizations.

**Water Fund:**

**1. Resolution #11-1998 for \$2,088,000      Rescind amount    \$1,320,000**

Resolution # 11-1998 established the borrowing authorization from the State of NH State Revolving Loan Fund of \$2,088,000 for various water system improvements.

Projects from this resolution have been completed and SRF loan is not required leaving a balance of \$1,320,000 to be rescinded.

**2. Resolution #12-2005 for \$10,100,000      Rescind amount    \$7,842,303**

Resolution # 12-2005 established the borrowing authorization from the State of NH State Revolving Loan Fund of \$10,100,000 for five (5) water system improvement projects.

Two of the projects from this resolution have been completed, while the remaining three (3) will not be completed under the State of New Hampshire SFR program leaving a balance of \$7,842,303 to be rescinded.

**Sewer Fund:**

**3. Resolution #11-2002 for \$22,500,000      Rescind amount    \$2,666,811.11**

Resolution # 11-2002 established the borrowing authorization from the State of NH State Revolving Loan Fund of \$22,500,000 for projects identified in the 201 Facilities Plan Study.

Several Projects were completed at a total cost of \$19,833,188.89 leaving a balance of \$2,666,811.11 to be rescinded.

**4. Resolution #8-2001 for \$2,900,000      Rescind amount    \$13,327.99**

Resolution # 8-2001 established the borrowing authorization for additional funds of \$2,900,000 for Sewer Phase 2 projects.

Several Projects were completed at a total cost of \$2,886,672.01 leaving a balance of \$13,327.99 to be rescinded.

**5. Resolution #16-2007 for \$1,500,000      Rescind amount    \$430,286.26**

Resolution # 16-2007 established the borrowing authorization from the State of NH State Revolving Loan Fund of \$1,500,000 for the Rye Line Pump Station.

The project was completed at a total cost of \$1,069,713.74 leaving a balance of \$430,286.26 to be rescinded. [Attached is the Resolution.](#)

*I recommend the City Council approve rescinding the remaining borrowing authority with regard to the following Resolutions:*

Water Fund:

1. *Resolution #11-1998 for \$2,088,000 - Rescind amount \$1,320,000*
2. *Resolution #12-2005 for \$10,100,000 - Rescind amount \$7,842,303*

Sewer Fund:

3. *Resolution #11-2002 for \$22,500,000 - Rescind amount \$2,666,811.11*
4. *Resolution #8-2001 for \$2,900,000 - Rescind amount \$13,327.99*
5. *Resolution #16-2007 for \$1,500,000 - Rescind amount \$430,286.26*

3. **Request for First Reading Re: Various FY15 Capital Plan Projects.** I am requesting that the City Council schedule a first reading for the [attached borrowing authorizations](#) identified in the Capital Improvement Plan at the August 18<sup>th</sup> City Council meeting. As you are aware, Borrowing Resolutions require two readings and adoption, which includes a public hearing and two-thirds vote of the City Council.

**GENERAL FUND**

3.1 **Resolution for borrowing authorization of up to \$3,475,000 for FY15 Citywide Seawall, Street, and Sidewalk Improvements.**

- **Seawall Repairs and Improvements - \$1,275,000:** *(page 76 & 77 of CIP FY15-20)*

This project will consist of repairing sections of the seawalls that are the property of the City including those in Prescott Park. The proposed projects are based on the recommendation of the Citywide Seawall Condition Study.

- **McDonough Street Area Improvements - \$400,000:** *(page 117 of CIP FY15-20)*

This project is at the request of the Islington Creek Neighborhood Association to have new sidewalks and traffic calming measures installed throughout the McDonough

Street area. This project will enhance safety for the residents and others who travel through this area on foot, by bicycle and motor vehicle. The work will include water, sewer, storm drainage, paving, curbing and associated landscaping constructed in a phased approach and is the final phase.

- **Maplewood Avenue Rehabilitation - \$1,300,000:** *(page 124 of CIP FY15-20)*

This project has been initiated by the residents of Maplewood Avenue with the primary purpose to reduce travel speeds, improve pedestrian safety, and eliminate through truck travel. This work will include traffic calming methods, curbing, signage, pavement markings, pedestrian safety amenities, and sidewalk replacement as needed between Woodbury Ave and Route 1 By-Pass southbound ramp and will be coordinated with the water line replacement project.

- **Pease International Tradeport Roadway Rehabilitation - \$500,000:** *(page 125 of CIP FY15-20)*

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 continuation of the rehabilitation of roadway infrastructure within the Tradeport.

3.2 **Resolution for borrowing authorization of up to \$750,000 for FY15 School Facilities Improvements:** *(Page 52 of CIP FY15-20)*

- This project funds the replacement of the lighting system that was installed in 1989 for the 7 athletic fields and tennis courts on the Portsmouth High School Campus. The lighting system is now beyond its expected life resulting in component failure as well as bulbs, ballasts and fixtures are no longer being manufactured. An energy efficient lighting upgrade is planned over the next three years.

## **WATER FUND**

3.3 **Resolution for borrowing authorization of up to \$4,800,000 related to Water System Upgrades and Improvements.**

- **Greenland Well Upgrades - \$1,000,000:** *(identified in the FY08 CIP page 173)*

The Water Division has completed a study that has identified upgrades needed at the Greenland Well to improve the reliability and efficiency of this critical resource. The work will involve the installation of another well directly adjacent to the existing structure. Premium efficiency motors, a back-up power supply and a new disinfection system as well as SCADA instrumentation will be included in this work.



- **Maplewood Avenue Waterline Replacement - \$3,300,000:** (page 138 of CIP FY15-20)

This project consists of replacing approximately 7,500 feet of 6” and 8” 90 year old waterline on Maplewood Avenue with new 16’ cement-lined ductile iron waterline. The replacement would begin at the intersection of Woodbury Avenue and Maplewood Avenue and continue to the intersection of Raynes Avenue and Maplewood. Project will result in a looped water system feed into the central business district which will benefit both fire flows as well as water quality.

- **Water System Pressure-Storage Improvements - \$500,000:** (page 142 of CIP FY15-20)

This project consists of design and construction of sections of the water system which have been identified as needing upgrades as part of the water system hydraulic model and master plan update completed in 2013. This funding is for the replacement of the three existing Madbury well pumps and upgrades to the associated pumping equipment; one of the projects identified to address system pressure and reliability.

## **SEWER FUND**

### **3.4 Resolution for borrowing authorization of up to \$1,000,000 for FY15 Pease Wastewater Treatment Plant Upgrade.** (Page 150 of CIP FY15-20)

- This project addresses capital needs at the Pease Wastewater Treatment Facility. Parts of this plant date back to the original 1950s construction and are beyond their useful life. In addition, the Plant’s NPDES discharge permit is up for renewal and this item anticipates additional capital needs which may result from a new permit.

*I recommend the City Council move to authorize the City Manager to bring back for first reading the various proposed Resolutions, as presented, at the August 18, 2014 City Council meeting.*

4. **Report Back Re: Portsmouth Cottage Senior Housing Authorizing CDBG Loan.** As you know, at its meeting on July 14<sup>th</sup> the City Council referred the [attached letter from the Portsmouth Housing Authority \(PHA\) Executive Director Craig Welch](#) to the Citizens Advisory Committee (CAC) for a report back. The letter concerns the needed replacement of windows at the Cottage Senior Housing development on Junkins Avenue. The Citizens Advisory Committee met on July 29, 2014 to discuss the issue and met with PHA Executive Director Craig Welch. In addition to the July 7<sup>th</sup> 2014 letter from Mr. Welch, additional information was requested and submitted by Mr. Welch prior to the meeting and several questions and answers were discussed at the meeting.

## **Background**

In 2003, the City of Portsmouth entered into a long-term lease with the Cottage Senior Housing Limited Partnership for the development of 20 units of housing eligible to seniors (age 62 or older) earning low incomes. As the general partner in the development, the Portsmouth Housing Authority also secured a \$150,000 loan through the City's Community Development Block Grant program. The overall project cost was \$3 million dollars and other funding sources included historic tax credits, low income housing tax credits, and bank financing.

## **City of Portsmouth CDBG Loan**

The original \$150,000 loan was for the development of the premises as affordable housing. The loan, with interest accruing at the rate of 1% per annum, was to be repaid from surplus cash flow from the property (after reserves for capital and other debt obligations were met). Ninety percent (90%) of the surplus cash flow was to be paid to the City, first to interest then to principal on the note. Since 2004, the Housing Authority has made regular payments on the note and the loan balance is \$52,400.

## **2014 Window Replacement Project**

Beginning in 2013, then new Executive Director Craig Welch initiated a series of inspections and investigations that led to the determination that the windows at the development were in need of replacement. Mr. Welch's July 7, 2014 letter to City Manager John Bohenko outlines the window conditions and effects on the residents in the units. Also, Mr. Welch requests alterations to the existing loan agreement and promissory note with the City in order to move forward with the project. The total project cost is estimated to be \$450,000.

## **Restructuring Debt on the Property to Finance Window Replacement**

In order to finance the proposed improvements, the Portsmouth Housing Authority has worked with each of the project funders from the original 2003 development to restructure the project financing. The PHA has been successful in reaching agreements with the New Hampshire Housing Finance Authority (NH Housing), the Federal Home Loan Bank of Boston, Peoples United Bank, and the Community Reinvestment Fund. NH Housing has agreed to convert its 5% loan from 2003 to a 0% interest loan and subordinate to a new loan from the Community Reinvestment Fund, a Community Development Finance Institution (CDFI). Peoples United Bank has also agreed to subordinate and remain in 3<sup>rd</sup> place.

In addition, the PHA is making requests of the City of Portsmouth in order to facilitate the rehabilitation. The City is currently in a fourth position behind other debt on the property. The request to the City of Portsmouth has been formulated as part of a larger financing package that is dependent upon the terms of the agreements the project funders noted above. The City is being asked to do three things:

1. Subordinate the current loan behind the new debt;
2. Increase the size of the loan from a current balance of \$52,400 to a new amount of \$130,000 (an increase of \$77,600); and

3. Modify the distribution of surplus cash from which the City's debt is paid from 90% to 25% and modify the maturation date to occur in 2034.

### **Recommendation from the Citizens Advisory Committee**

The CAC is recommending that the City Council move forward with the actions requested by the Portsmouth Housing Authority. Based on the meeting with Mr. Welch and additional information submitted by the PHA in support of the request, the CAC made the following observations in preparing its recommendation to you.

1. The windows are in need of replacement and the proposed improvements are in the best interest of the residents living in the units and for the City-owned building.
2. The PHA has worked with all funders from the previous project and gained cooperation and modification to loan terms from those lenders in creating a new debt structure for the property to finance the improvements.
3. No other funding sources are available to the PHA to move forward with these improvements.
4. The request to increase the size of the original CDBG loan and other requested modifications are reasonable. The original note was \$150,000 and it has been paid down to \$52,400. Increasing the size of the loan to a new principal balance of \$130,000 would be "re-lending" \$77,600 of the funds that had been previously repaid. As a reminder, CDBG funds are non-local tax dollars from the federal government, which must be used to benefit residents earning low and moderate incomes. The proposed use of the funds, to replace windows at the Cottage, is an eligible rehabilitation expense and funding is available in the CDBG program.

Based on the recommendation of the Citizens Advisory Committee, the following motion to implement the recommendation in the report back would be appropriate:

*To authorize the City Manager to take any and all actions to implement the following:*

1. *to subordinate the current loan with the Cottage Senior Housing Limited Partnership behind the new debt;*
  2. *to increase the size of the loan from a current balance of \$52,400 to a new principal balance of \$130,000 (an increase of \$77,600); and*
  3. *modify the distribution of surplus cash from which the City's debt is paid from 90% to 25% and modify the maturation date to occur in 2034.*
5. **Polling Hours for September 9, 2014 State Primary Election.** [Attached is a memorandum from the City Clerk, Kelli L. Barnaby](#), recommending the polling hours for the State Primary Election be set from 8:00 a.m. to 7:00 p.m.

*I would recommend the City Council move to set the polling hours from 8:00 a.m. to 7:00 p.m. for the State Primary Election on Tuesday, September 9, 2014.*

6. **Request for a Encumbrance Permit (Sidewalk Closure) for Construction Project at 185 Austin Street for an Additional Period of Six Months.** David Osterhoudt is requesting a license agreement to complete construction of improvements to a residential structure at 185 Austin Street (the corner of Cabot Street and Austin Street). [See attached communication from Mr. Osterhoudt which includes a plan of the work area.](#) He has erected staging on Cabot Street and has been working pursuant to an encumbrance permit issued by the Inspections Department.

City staff recommends that a license be authorized for six months from the date of approval by the City Council with the City Manager having the right to extend the license for up to an additional 45 days upon good cause shown. The license will require Mr. Osterhoudt to be subject to terms and conditions similar to those in the existing encumbrance permit, which conditions have been effective to date.

*I recommend the City Council move to authorize the City Manager to enter into a license with Mr. Osterhoudt to facilitate construction activities at 185 Austin Street.*

7. **Request for First Reading of Proposed Ordinance Amendment to Chapter 7, Article II, Section 7.230 – Prohibited Conduct by Medallion Holders or Owners.** As a result of the Taxi Commission meeting on June 16, 2014, [attached is a request for first reading of the proposed Ordinance amendment to Chapter 7, Article II, Section 7.230 – Prohibited Conduct by Medallion Holders or Owners](#) as follows:

Section 7.230: Prohibited Conduct by Medallion Holders or Owners.

No holder of a taxi medallion or owner of a taxi to which a medallion has been issued shall, either individually or in conjunction with any other person, transport passengers for hire within the City except by the use of vehicles which have been issued a taxi medallion by the City.

The request for first reading is for the August 18, 2014 City Council meeting.

*I recommend the City Council move to authorize the City Manager to bring back for first reading the proposed Ordinance amendment, as presented, at the August 18, 2014 City Council meeting.*

8. **Report Back Re: Architectural Design Review Outside the Historic District.** As you will recall, at the January 13, 2014 City Council meeting, the Council took the following action:

Voted to request that the Planning Board consider a process for architectural review of building projects located outside of the Historic District with a report back to the City Council at the April 7, 2014 City Council meeting and to hold a Work Session with the City Council on March 3, 2014 at 6:00 p.m. to review and come forward with parameters for architectural review.

[Attached is a memorandum from Rick Taintor, Planning Director, regarding this matter.](#) As you can see, the Planning Board considered the request at its meetings on April 3 and July 17, 2014. Following an extensive discussion of these issues, the Planning Board voted 8 to 1 to recommend against establishing an architectural design process outside the Historic District.

*I recommend the City Council move to accept the Planning Board's recommendation against establishing an architectural design process outside the Historic District.*

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

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on July 14, 2014. In addition, this can be found on the City's website.
2. **Report Back with Chairs of Planning Board, Historic District Commission and Board of Adjustment Re: Workload.** At the City Council meeting of June 2, 2014 following discussion regarding the additional alternate members to the Board of Adjustment, the City Council requested a report back on number of items relating to the workload that has been experienced by our Land Use Boards over the last several years.

The questions asked included:

- The potential to add additional Members to the BOA;
- The number of meetings held per month;
- Establishing a deadline for submitting materials for land use board agendas;
- Creating a time for adjournment of the meetings;
- And the affect of making applicants go to the next meeting

[Attached are the initial email responses from the Board Chairs](#) regarding the questions asked. In addition, David Allen, Deputy City Manager, spoke with each of the Board Chairs individually about their views of issues presented. The consensus was that the Boards were not seeking structural changes that would require City Council actions but could make adjustments to their procedures through changes to their own rules and regulations.

The example of the Planning Board developing a format for the public hearing process (first time speakers – 3 minutes; second time speakers - 10 minutes; and third time speakers - unlimited) was discussed as an option for controlling the meeting length. Each of the Chairs acknowledged that those were the types of options that they could develop through their own rules and regulations if and when they felt they were needed.

Joe Almeida acknowledged that the HDC tools funded by the City Council will help the decision making process of the Commission. The new computer based model of the

downtown area is nearly complete and the development of the design guidelines is underway.

All of the Chairs agreed that maintaining a full complement of Board members, including alternates was critical to their performance.

The Chairs also agreed that the Boards could benefit from additional training. The Office of Energy and Planning offers training for land-use boards but those trainings typically take place on weekends in Concord. The New Hampshire Municipal Law Association also provides offsite training. Those training sessions are offered to Board and Commission members at no charge. All of the Chairs agreed that it would be helpful to bring the training to the board, either prior to a meeting or through an additional evening. To that end, City Staff is looking into options for bringing in training that can be customized to address specific areas of concern of the individual boards.

3. **Report Back Re: Helicopters.** At the July 14<sup>th</sup> City Council meeting, Councilor Morgan inquired about her concerns pertaining to the operation of helicopters from the Portsmouth International Airport at Pease. I contacted Lynn Hinchee, Counsel, for the Pease Development Authority who responded to my inquiry in the [attached e-mail, which includes the PDA Board minutes dated August 29, 2013](#). If people have complaints, they should document them through the Complaint Hotline (603) 436-6333.
4. **Update on Report Back Re: Peirce Island Archaeological Study.** As you know, at its meeting on July 14<sup>th</sup>, the City Council asked for a report back on a written request from the Peirce Island Committee. In its letter, the Committee requested that capital plan funds for Peirce Island be used to fund an archaeological study of two middens located on the Island and related investigations. Middens are deposits containing shells, animal bones, and other refuse that indicate the site of a human settlement, in this case, the two middens found at Peirce Island potentially date from two different periods of the Island's use as a military fort, the Revolutionary War and the War of 1812. During the construction work on the Plant, the two archaeological resources highlighted by the Committee will be protected by means of fencing as was recommended by AECOM's consulting archaeologist.

In reviewing the request, it is important to note that a major final step of the construction project is to implement a restoration plan for the portions of the island that will have been used temporarily as a laydown area for the contractor's equipment and materials during construction. With regard to the timing of the Committee's proposed investigations, it would be advantageous for the archaeological investigation to take place after the completion of the new plant but prior to, and in preparation for, the restoration plan. Other issues needing investigation prior to additional archeological work are the potential permitting needs as well as the protocols with respect to providing public information about Fort Washington and related archaeological resources while protecting the resources. Staff is continuing to review the proposal and plan to meet with the Peirce Island Committee at their next meeting in preparation for the report back.

5. **Status of Transfer Re: Paul A. Doble Army Reserve Center.** As you know, I have been working with City staff and our Congressional delegation on the transfer of the Paul A. Doble Army Reserve Center. At the end of last year our delegation pursued an amendment to the National Defense Authorization Act (NDAA), which authorized the Army to directly transfer the Doble facility to the City of Portsmouth eliminating the need for additional screening and steps under a different disposal authority. Since that time staff has confirmed that disposal steps have begun within the Department of the Army and that the property will be disposed of via a public benefit conveyance (PBC) sponsored by the U.S. Department of the Interior National Park Service under their Federal-Lands-to-Parks Program. Those disposal steps include various administrative and environmental reviews required by law.

The property is being transferred in accordance with the August 2013 PBC application for a parks-related reuse (Senior Center). As a public benefit conveyance, the City is able to acquire property from the federal government at no cost. However, as stipulated in the federal legislation concerning this property and four other similar Army installations, the City may incur some costs associated with the transfer itself.

The property transfer steps will take place concurrently with the Army Reserve's continued efforts to complete their new building on Lafayette Road, relocate their units, and report the property's availability to the Army Corps of Engineers, which carries out real estate transactions for the Army. At this time, the Army Corps and Army Reserve anticipate assigning the property to the Department of the Interior in the early spring of 2015. The Department of the Interior plans to give the City constructive possession of the property shortly thereafter. City staff will continue to monitor the timeline for the transfer as the administrative process progresses.

I have directed staff to continue to make preparations in advance of the property transfer including working with the Senior Subcommittee of the Recreation Board. I will provide updates on this issue as more information becomes available including a more definitive timeline for the transfer.

6. **Report Back Re: Request for Enhanced Lighting of Commercial Alley.** As you will recall at the July 14, 2014 City Council meeting, the Council referred a request for enhanced lighting of Commercial Alley to the City Manager for report back to the City Council. For your information, [attached is a letter to the stakeholders of Commercial Alley](#) regarding this matter.
7. **Update on the Schedule for the Phase 2 of the Character-Based Zoning Project.** With a final contract pending with the city's consultants at Town Planning & Urban Design Collaborative, LCC (TPUDC), we expect to hold a project kick-off meeting for Phase 2 of the Character-Based Zoning Project the week of August 25<sup>th</sup> and conduct the first multi-day charrette for the North End in mid to late September. After developing a community vision plan during the charrette process, TPUDC will commence drafting a character-based zoning amendment for the North End and then return to Portsmouth in mid-November to hold the



second multi-day charrette for the Islington Street Corridor. Once the dates for these two charrettes are confirmed over the next week, the Planning Department will develop a public outreach program to ensure local residents and business owners are aware of the charrette locations, the public meeting schedule, and other related activities. If you have any questions, please let me know.

8. **Report Back Re: Off-Street Parking Requirements for Conference/Convention/Event Centers.** As you will recall, at the January 13, 2014 City Council meeting, the Council voted to refer the following zoning amendment, proposed by Councilor Morgan, to the Planning Board for a report back:

Add a new line item to Table 10.1112.30 Off-Street Parking Requirements so as to require conference centers, convention centers, and event centers to provide one (off-street) space per 2 persons or rated capacity.

For your information, [attached is a memorandum from Rick Taintor, Planning Director](#), regarding this matter.

9. **Report Back Re: Building and Development Compliance with Land Use Boards.** As you will recall, earlier this year, it was discovered that aspects of the Portwalk project were not in compliance with approvals by the Planning Board and Historic District Commission, and the City Council as well as staff and members of the public were concerned that proper controls be put in place to prevent this type of situation for occurring in the future. As a result of the April 21, 2014, City Council meeting, [I have attached a memorandum from Deputy City Manager David Allen and Planning Director Rick Taintor](#) describing the approach that the Planning and Inspections Departments are taking to address this concern. The memo summarizes the separate points in the permitting process where such discrepancies can arise, and outlines four steps that are being put into place to prevent such discrepancies. These include affidavits from the applicant's development professional both before issuance of a building permit and before issuance of a certificate of occupancy; hiring a third-party professional to review plans of larger projects for compliance with approvals; and hiring a contract Board Enforcement Agent to review plans for smaller projects.
10. **Report Back Re: Enforcement of Land Use Regulation Violations.** As a result of several City Council meetings since January 21, 2014, [attached is a memorandum from City Attorney Robert Sullivan regarding Enforcement of Land Use Regulation Violations](#). As the memorandum indicates, this is a request of the City Council, which was initiated by Assistant Mayor Splaine.