

TO: JOHN P. BOHENKO, CITY MANAGER

FROM: KELLI L. BARNABY, CITY CLERK

RE: ACTIONS TAKEN BY THE PORTSMOUTH CITY COUNCIL MEETING HELD ON MONDAY, AUGUST 4, 2014, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, MUNICIPAL COMPLEX, ONE JUNKINS AVENUE, PORTSMOUTH, NEW HAMPSHIRE

PRESENT: MAYOR LISTER, ASSISTANT MAYOR SPLAINE, COUNCILORS KENNEDY (via conference call), LOWN, DWYER, MORGAN, SPEAR AND THORSEN

ABSENT: COUNCILOR SHAHEEN

1. At 6:15 p.m., a Work Session was held regarding the Police Department Space Needs Study with the Police Commission, Police Chief Dubois and Consultants of Lavallee/Brensinger Architects Will Gatchell and Ian Reeves.
2. Presentation - Report Back from Fire Chief Steve Achilles Re: Rail Transportation of Liquid Propane Gas – Fire Chief Achilles provided a Presentation regarding the Rail Transportation of Liquid Propane Gas which reviewed the following:
 - Hazard Classifications
 - LPG Safety Data Sheets
 - Control Consideration
 - Fire Department Preparedness
 - Emergency Planning
 - Modeling of a Catastrophic Release of LPG
3. Acceptance of Minutes – April 21, 2014 – **On a unanimous roll call 7-0, voted to accept and approve the minutes of the April 21, 2014 City Council meeting. Mayor Lister abstained from voting as he did not attend the April 21, 2014 meeting.**
4. Public Comment Session – There were 8 speakers: Lou Brown, (LPG Transport Safety); Marc Frank (Market Basket Resolution); Bob Gibbons and Rich DiPentima (Sea-3); Jerry Karabelas (Traffic Issues); Stuart Wisong (Helicopters); Joe Caldarola (Gambling & Atlantic Heights); and Del Morse (Atlantic Heights).
5. 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

On a unanimous roll call 8-0, voted to accept and approve the grant and donation to the Portsmouth Police Department, as listed.

6. Public Hearing - 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 – Held a public hearing. **On a unanimous roll call 8-0, voted to pass second reading on the proposed Ordinance amendment and hold third and final reading at the August 18, 2014 City Council meeting.**
7. First Reading of Ordinance amending Chapter 7, Vehicles, Traffic and Parking Omnibus Ordinance **On a unanimous roll call 8-0, voted 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.**
8. First Reading of Ordinance amending Chapter 10, Article 15, Section 10.1530 by the addition of the following new definition – Commercial Gambling Operation – **On a unanimous roll call 8-0, voted to postpone action on this Ordinance.**
9. 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 – **On a unanimous roll call 8-0, voted 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.**
10. Consent Agenda – **On a unanimous roll call 8-0, voted 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 18th 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***)

11. 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 – **On a unanimous roll call 8-0, voted to refer to Mayor Lister to work with NHDOT Commissioner, State Senator Martha Fuller Clark and our Legislative Delegation with a report back to the City Council.**
12. Letter from Bernard Pelech, Attorney, Law Office of Wholey & Pelech, regarding Request for Restoration of Involuntarily Merged Lots Pursuant to RSA 674:39aa (2 Sylvester Street/Tax Map 232, Lot 35) – **On a unanimous roll call 8-0, voted to refer to City staff for review and report back at the August 18, 2014 City Council meeting.**
13. Request to Establish City Council Retreat – **On a unanimous roll call 8-0, voted 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.**
14. Rescission of Bond Authorization for Various Projects – **On a unanimous roll call 8-0, voted to approve rescinding the remaining borrowing authority with regard to the following Resolutions:**

Water Fund:

- Resolution #11-1998 for \$2,088,000.00 – Rescind amount \$1,320,000.00.
- Resolution #12-2005 for \$10,100,000.00 – Rescind amount \$7,842,303.00.

Sewer Fund:

- Resolution #11-2002 for \$22,500,000.00 – Rescind amount \$2,666,811.11.
- Resolution #8-2001 for \$2,900,000.00 – Rescind amount \$13,327.99.
- Resolution #16-2007 for \$1,500,000.00 – Rescind amount \$430,286.26.

15. Request for First Reading Re: Various FY15 Capital Plan Projects – **On a unanimous roll call 8-0, voted 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.**

16. Report Back Re: Portsmouth Cottage Senior Hospital Authorizing CDBG Loan – **On a unanimous roll call 8-0, voted to authorize the City Manager to take any and all action to implement the following:**
- **To subordinate the current loan with the Cottage Senior Housing Limited Partnership behind the new debt;**
 - **To increase the size of the loan from a current balance of \$52,400.00 to a new principal balance of \$130,000.00 (an increase of \$77,600.00); and**
 - **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.**
17. Polling Hours for September 9, 2014 State Primary Election – **On a unanimous roll call 8-0, voted 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.**
18. Request for a Encumbrance Permit (Sidewalk Closure) for Construction Project at 185 Austin Street for an Additional Period of Six Months – **Moved to authorize the City Manager to enter into a license with Mr. Osterhoudt to facilitate construction activities at 185 Austin Street.**
- Moved to amend the motion to extend the license for 60 days with a report back from the Parking Traffic & Safety Committee.**
- On a unanimous roll call 8-0, voted to pass the motion as amended.**
19. Request for First Reading of Proposed Ordinance Amendment to Chapter 7, Article II, Section 7.230 - Prohibited Conduct by Taxi Medallion Holders or Owners – **On a unanimous roll call 8-0, voted 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.**
20. Report Back Re: Architectural Design Review Outside the Historic District – **On a unanimous roll call 8-0, voted to postpone this matter pending a report back.**
21. City Manager's Informational Item #9 – Report Back Re: Building and Development Compliance with Land Use Boards – *Councilor Morgan requested a report back in 3-4 months on how the process is going in order to identify any needs and provide feed back.*
22. At 9:55 p.m., Mayor Lister declared a brief recess. At 10:00 p.m., Mayor Lister called the meeting back to order.
23. Appointment to be Considered – Cristy Cardoso – reappointment to the Citywide Neighborhood Committee – The City Council considered the reappointment of Cristy Cardoso which will be voted on at the August 18, 2014 City Council meeting.

24. 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

On a unanimous roll call 8-0, voted to appoint Robert Capone to the Cable Television and Communications Commission until April 1, 2016; appointment of Matthew Cardin as an Alternate to the Conservation Commission until April 1, 2016 filling the unexpired term of Shelley Saunders; appointment of Vincent Lombardi as an Alternate to the Historic District Commission until June 1, 2016 filling the unexpired term of Dan Rawling; appointment of Mary Lou McElwain as an Alternate to the Parking and Traffic Safety Committee; appointment of Lisa Louttit to the Recreation Board until April 1, 2015 filling the unexpired term of Ed DeValle; and appointment of Jeremiah Johnson as an Alternate to the Zoning Board of Adjustment until December 1, 2018.

25. Acceptance of Resignations – **On a unanimous roll call 8-0, voted to accept with regret the resignations of Alicia Weaver from the Citizens Advisory Committee and John Weaver from the Library Board of Trustees and to send a letter of thanks and appreciation to Alicia and John for their service to the City.**

26. Letter from Police Commission Chairman John F. Golumb response to motorcycle noise and speeding enforcement throughout the City – Informational Item, no action required.

27. Letter from Governor Margaret Hassan Re: Proposed Expansion of Sea-3 Facility in Newington – Informational item, no action required.

28. Letter to Governor Margaret Hassan Re: Sound Barriers – Informational Item, no action required.

29. Resolution Supporting Market Basket Employees – **Moved the following Statement of Support that the Portsmouth City Council extends our sincere best wishes and support for the cause of the loyal employees and faithful customers of the Market Basket family. We are hopeful for, and encourage, a solution that will be in the interest of Portsmouth Market Basket employees and customers.**

On a roll call 6-2, voted that the Council is hopeful for, and encourage, a solution that will be in the best interest of Portsmouth Market Basket employees and customers, as amended. Assistant Mayor Splaine, Councilors Kennedy, Dwyer, Morgan, Spear and Mayor Lister voted in favor. Councilors Lown and Thorsen voted opposed.

30. **Voted to suspend the rules in order to continue the meeting until 11:20 p.m.**

31. Atlantic Heights Emergency Access - No action required.

32. Unattended Buildings Status Review – No action required.
33. Noise Issues Citywide – *Councilor Kennedy requested that the City Manager bring back a data driven mechanism to measure sound in the City.*
34. Parking and Traffic Safety Committee Action Sheet and Minutes of the July 10, 2014 meeting – **On a roll call 7-1, voted to accept and approve the action sheet and minutes of the July 10, 2014 Parking and Traffic Safety Committee meeting. Councilor Kennedy voted opposed.**
35. Adjournment – **On a unanimous roll call 8-0, at 11:30 p.m., voted to adjourn.**

Respectfully submitted by:

Kelli L. Barnaby, CMC/CNHMC
City Clerk