

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, DECEMBER 22, 2014 TIME: 6:30PM

AGENDA

- I. CALL TO ORDER (6:30 PM)
- II. ROLL CALL
- III. NON-PUBLIC SESSION RE: ACQUISITION OF REAL PROPERTY PURSUANT TO RSA 91-A:3, II (d)
- IV. INVOCATION
- V. PLEDGE OF ALLEGIANCE

PRESENTATION

- 1. Portsmouth High School Ensemble – Steve Cirillo

VI. ACCEPTANCE OF MINUTES – OCTOBER 6, 2014 AND OCTOBER 20, 2014

VII. PUBLIC COMMENT SESSION

VIII. PUBLIC HEARINGS

- A. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, SECTION 1.440 TABLE OF USES, USE #15.20 AND SECTION 10.1530 TERMS OF GENERAL APPLICABILITY, REGARDING HELIPAD AND HELIPORT
- B. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, SECTION 10.1110 – OFF-STREET PARKING BY INSERTING A NEW PARAGRAPH 10.1115.24 – THE PROVISIONS OF SECTION 10.1112.50 – MAXIMUM NUMBER OF PARKING SPACES, SHALL NOT APPLY TO BUILDINGS AND USES WITHIN THE DOWNTOWN OVERLAY DISTRICT
- C. BONDING RESOLUTION OF UP TO SIX HUNDRED THOUSAND DOLLARS (\$600,000.00) FOR THE PURCHASE OF A HEAVY RESCUE FIRE TRUCK

IX. APPROVAL OF GRANTS/DONATIONS

(There are no grants/donations on for acceptance)

X. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.440 Table of Uses, use #15.20 and Section 10.1530 Terms of General Applicability, regarding Helipad and Heliport (**Sample motion – move to pass second reading and schedule third and final reading at the January 5, 2015 City Council meeting regarding the proposed Ordinance, as presented**)
- B. Second Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.1110 – Off-Street Parking by Inserting a new paragraph 10.1115.24 – The Provisions of Section 10.1112.50 – Maximum Number of Parking Spaces, shall not apply to Buildings and Uses within the Downtown Overlay District (**Sample motion – move to pass second reading of the proposed Ordinance as recommended by the Planning Board and schedule third and final reading at the January 5, 2015 City Council meeting, as presented**)
- C. Adoption of Bonding Resolution of up to Six Hundred Thousand Dollars (\$600,000.00) for the Purchase of a Heavy Rescue Fire Truck (**Sample motion – move to adopt the Bonding Resolution appropriating the sum of up to Six Hundred Thousand (\$600,000.00) Dollars, for the FY15 purchase of a Heavy Rescue Fire Truck, as presented**)
- D. Third and Final Reading of Proposed Ordinance amending Chapter 1, Article IX, Section 1.901: - Conflict of Interest of the Administrative Code (**Sample motion – move to substitute the ordinance in its entirety as presented by City Attorney Sullivan and move to pass third and final reading**)

XI. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Chris Vlangas, Cystic Fibrosis Foundation, requesting to hold the Aptails CF Cycle for Life on Saturday, July 18, 2015 and Sunday, July 19, 2015 (**Anticipated action – move to refer to the City Manager with power**)
- B. Letter from Doug Bates, Greater Portsmouth Chamber of Commerce, requesting permission to conduct the 2015 Run Portsmouth Road Race Series:
- Easter Seals Veteran's Count – Pack & Boots 5k on Saturday, July 4, 2015 at Strawberry Banke at 9:00 a.m.
 - Portsmouth Rotary Club – Thunder Chicken Road Race on Saturday, August 1, 2015 at Strawberry Banke at 9:00 a.m.
 - CelebratePink 5K Road Race & Walk on Sunday, September 13, 2015 at Portsmouth Middle School at 9:00 a.m.
 - Memorial Bridge Road Race, Saturday, October 10, 2015 at Memorial Bridge at 10:00 a.m.
- (**Anticipated action – move to refer to the City Manager with power**)
- C. Letter from Doug Bates, Greater Portsmouth Chamber of Commerce, requesting to conduct the 2015 Portsmouth Challenge on Saturday, May 23, 2015 at the Portsmouth High School at 9:00 a.m. (**Anticipated action – move to refer to the City Manager with power**)

- D. Request for License from Gary Simon, owner of British Beer Company for property located at 2 Portwalk Place for a projecting sign on a bracket (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Gary Simon, owner of British Beer Company for a projecting sign at property located at 2 Portwalk Place 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 Donation to Art-Speak – Robin Albert Lehman - \$150.00 (***Anticipated action – move to approve and accept the donation to Art-Speak, as listed***)
- F. *Acceptance of Membership Dues to Art-Speak – Portsmouth Public Media, Inc. - \$125.00 (***Anticipated action – move to approve and accept the membership dues to the Piscataqua Arts & Cultural Alliance, a program of Art-Speak, as listed***)

XII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Formal Request for Resident Handicapped Parking Spaces for residents of 20 Islington Street

XIII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items Which Require Action Under Other Sections of the Agenda

1. Public Hearing and Second Reading of Proposed Resolutions and Ordinances:
- 1.1 Report Back and Public Hearing/Second Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.440 Table of Uses, use #15.20 and Section 10.1530 Terms of General Applicability, regarding Helipad and Heliport (***Action on this items should take place under Section X of the Agenda***)

- 1.2 Public Hearing/Second Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.1110 - Off-Street Parking by Inserting a new paragraph 10.1115.24 – The Provisions of Section 10.1112.50 – Maximum Number of Parking Spaces, shall not apply to Buildings and Uses within the Downtown Overlay District (**Action on this items should take place under Section X of the Agenda**)
2. Public Hearing and Adoption of Bonding Resolution:
 - 2.1 Adoption of Bonding Resolution of up to \$600,000.00 (Six Hundred Thousand Dollars) for the Purchase of a Heavy Rescue Fire Truck (**Action on this items should take place under Section X of the Agenda**)
3. Third and Final Reading of Proposed Ordinances:
 - 3.1 Third and Final Reading of Proposed Ordinance amending Chapter 1 , Article IX, Section 1.901: Conflict of Interest of the Administrative Code (**Action on this items should take place under Section X of the Agenda**)

City Manager's Items Which Require Action:

1. Request for Approval of a Proposed Tentative Agreement between the City of Portsmouth and the AFSCME #1386 School Custodials
2. Request for Approval of a Proposed Tentative Agreement between the City of Portsmouth and the Portsmouth Paraprofessional Association
3. Request for Supplemental Appropriation Re: Collective Bargaining Agreements
4. Release of Easement Re: John Ahlgren

Informational items

1. Events Listing
2. Income and Expense Survey – 2015 Commercial Revaluation
3. Report Back Re: Handicapped Spaces
4. Report Back Re: Various Items
 - Master Plan
 - Senior Center
 - Wastewater Treatment Facility
 - Helicopter Meetings
 - Review of Noise Ordinance/95 Barrier
5. City Council Agenda Re: January 5, 2015

B. MAYOR LISTER

1. Appointments to be Voted:
 - Jennifer Zorn – Appointment to the Economic Development Commission
 - William Gladhill – Reappointment to the Planning Board
 - John Ricci – Reappointment to the Planning Board
 - Rebecca Perkins – Appointment to the Portsmouth Housing Authority
 - Arthur Parrott – Reappointment to the Zoning Board of Adjustment
2. Resignation of Mary Ann List from the Joint Building Committee

C. ASSISTANT MAYOR SPLAINE

1. *Update on Uber and Ride-Sharing Services: The Taxi Commission will hold a public forum for input and discussion Wednesday, January 14, 2015

XIV. MISCELLANEOUS/UNFINISHED BUSINESS

XV. ADJOURNMENT [AT 10:00PM OR EARLIER]


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

**Indicates Verbal Report*

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: December 18, 2014
To: Honorable Mayor Robert J. Lister and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on December 22, 2014 City Council Agenda

6:30 p.m. Non-Public Session Re: Acquisition of Real Property Pursuant to RSA 91-A:3, II (d)

For details on this matter, please refer to the confidential envelope inserted in the inside pocket of your binder.

Items Which Require Action Under Other Sections of the Agenda:

1. **Public Hearing/Second Reading of Proposed Resolutions and Ordinances:**
 - 1.1 **Report Back and Public Hearing/Second Reading of Proposed Ordinance Amending Chapter 10 – Zoning Ordinance, Section 10.440 Table of Uses, use #15.20, and Section 10.1530 – Terms of General Applicability, regarding Helipad and Heliport.** As a result of the December 8th City Council meeting, under Section VIII of the Agenda, I am bringing back for public hearing and second reading the [attached proposed Ordinance](#) Amending Chapter 10 – Zoning Ordinance, Section 10.440 Table of Uses, use #15.20, and Section 10.1530 – Terms of General Applicability, regarding Helipad and Heliport. Also, as you will recall, the City Council voted to refer this matter to the Planning Board for report back as well. Rick Taintor, Planning Director, will give a verbal report back on Monday evening regarding this matter.

As voted and requested by the City Council, the City Attorney and Planning Director drafted the [attached Ordinance](#) with the definitions of helipad and heliport, and amending the Table of Uses to permit a helipad for medical purposes only as a special exception in the Office Research (OR), Industrial (I), or Waterfront Industrial (WI) districts. First Reading of the proposed Ordinance was held at the

December 8, 2014 City Council meeting. This proposed Ordinance modifies the existing limitations on helicopter takeoff and landing facilities and revises the terminology so as to make the meaning clearer.

Under the current Zoning Ordinance, the Zoning Board of Adjustment is authorized to grant a special exception in the Office Research, Industrial or Waterfront Industrial zoning districts for a “heliport” provided that (a) it is an accessory use incidental to a permitted use, and (b) there is no commercial use of the facility. Under the proposed Ordinance, the special permit could only be granted for a helipad as an accessory use to a permitted hospital use. All other helipads and heliports would be prohibited.

In the existing Zoning Ordinance the term “heliport” is not defined. The proposed new definitions would clearly distinguish a “helipad” from a “heliport,” so that the ZBA would not be authorized to permit any facility that included helicopter fueling, service, maintenance or overhaul, or sale of products.

Action is required on this matter by the City Council to act on second reading and schedule a third and final reading at the January 5, 2015 City Council meeting regarding the proposed Ordinance, as presented. Action on this item should take place under Section X of the Agenda

- 1.2 **Public Hearing/Second Reading regarding a Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.1110 – Off-Street Parking.** As a result of the December 8th City Council meeting, under Section VIII of the Agenda, I am bringing back for public hearing and second reading a proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.1110 – Off-Street Parking.

In order to limit the extent of paved parking areas in the City’s commercial districts, the 2010 Zoning Ordinance included a provision establishing caps on the number of off-street parking spaces that businesses are allowed to provide. However, these maximum off-street parking standards, which are set forth in Section 10.1112.50 of the Ordinance, did not anticipate the subsequent reductions in the parking requirements in the Downtown Overlay District. As a result, in the area of the City where additional off-street parking is most needed, the Ordinance severely limits the amount of off-street parking that nonresidential or mixed-use buildings may provide.

[The attached proposed Ordinance](#) amends the Zoning Ordinance by exempting the Overlay District from the maximum off-street parking standards. This will allow developers of properties in the DOD to provide as much off-street parking as they believe is necessary to support their projects.

I recommend the City Council move to pass second reading and schedule a third and final reading of the proposed Ordinance as recommended by the Planning Board at the January 5, 2015 City Council meeting, as presented. Action on this item should take place under Section X of the Agenda

2. **Public Hearing and Adoption of Bonding Resolution:**

2.1 **Public Hearing and Adoption of Bonding Resolution of up to Six Hundred Thousand Dollars (\$600,000) for the Purchase of a Heavy Rescue Fire Truck.**

As a result of the December 8th City Council meeting, under Section VIII of the Agenda, I am bringing back for public hearing and adoption the [attached proposed Bonding Resolution](#) of up to Six Hundred Thousand Dollars (\$600,000) for the purchase of a Heavy Rescue Fire Truck. Also, [attached is FY15 CIP Sheet, Page 39 for your review](#). In addition, [attached are memorandums from Fire Chief Steve Achilles](#) requesting the Bonding Resolution as well as a description of the heavy rescue fire truck. As you are aware, Bonding Resolutions require a public hearing, two readings and a two-thirds vote is required of the City Council for passage.

I recommend the City Council move to adopt a Bonding Resolution appropriating the sum of up to Six Hundred Thousand (\$600,000) Dollars, for the FY15 purchase of a Heavy Rescue Fire Truck, as presented. Action on this item should take place under Section X of the Agenda.

3. **Third and Final Reading of Proposed Ordinances:**

3.1 **Third and Final Reading of Proposed Ordinance amending Chapter 1, Article IX, Section 1.901: Conflict of Interest of the Administrative Code.** As a result of the December 8th City Council meeting, under Section X of the Agenda, I am bringing back for third and final reading the [attached proposed Ordinance](#) amending Chapter 1, Article IX, Section 1.901: Conflict of Interest of the Administrative Code.

While the City Attorney was reviewing this Ordinance after it had passed second reading at the last meeting of the City Council, he noted three (3) minor modifications which should be made to produce a clean version of the ordinance for third reading. The first is to change the title of Section 1.901 from “City and School Board Disclosures” to “Municipal Official Disclosures” to reflect a change in the ordinance made by the Council at second reading. The other two changes are simple proofreading items. All three changes are shown in red on the attached ordinance.

Action on this matter is required by the City Council and should take place under Section X of the Agenda.

2. **Request for Approval of a Proposed Tentative Agreement between the City of Portsmouth and the Portsmouth Paraprofessional Association.** The City has reached a proposed Three-Year Agreement with the Portsmouth Paraprofessional Association to expire June 30, 2017. For your information and to facilitate discussion regarding this matter, [attached please find the following documents:](#)

- [A letter from Thomas Closson, City Negotiator, outlining the changes.](#)
- [The Paraprofessional Association Contract showing the insertions and deletions to implement the Tentative Agreement if approved.](#)
- [Cost Analysis](#)

I recommend the City Council move to accept the proposed contract with the Portsmouth Paraprofessional Association to expire on June 30, 2017.

3. **Request for Supplemental Appropriation Re: Collective Bargaining Agreements.** As you will recall, in the FY15 Budget, the City Council appropriated \$500,000 to offset the cost of collective bargaining agreements. At the time the Council established this appropriation, it was understood that there may be a need for a supplemental appropriation from fund balance to cover the cost for contracts that have been settled during FY15. The following collective bargaining agreements have or will be approved by the City Council as follows:

| | |
|---|--------------------|
| Professional Management Association | \$ 61,000 |
| Non-Union Employees | \$ 48,000 |
| Association of Portsmouth Teachers | \$ 680,000 |
| Administrators (School) | \$ 54,000 |
| Custodians(School) | \$ 18,500 |
| Paraprofessionals (School) | \$ 79,000 |
| Supervisors Management Association | \$ 20,000 |
| AFSCME #1386 (Tentative Agreement) | <u>\$ 95,000</u> |
| Total | \$1,055,500 |
| FY15 Appropriation | <u>(\$500,000)</u> |
| Amount Requested from Unassigned Fund Balance | \$ 555,500 |

Therefore, I am requesting in accordance with Section 7.14 of the City Charter that the Council establish a public hearing for January 5, 2015 to raise and appropriate \$555,500 from Unassigned Fund Balance.

4. **Release of Easement Re: John Ahlgren.** On January 22, 2013, the Portsmouth City Council approved the acceptance of a new utility easement from John Ahlgren who owns property at the end of Langdon Street and Brewster Street. [See Exhibit A.](#) The acquisition of this easement was recommended by the Planning Board on October 18, 2012. The purpose of the easement is to install upgraded infrastructure to alleviate flooding that occurs during significant rain events at the end of Brewster Street and in the adjacent low

areas north of McDonough Street. During the course of finalizing both the easement and the construction plans, it became apparent that an existing sewer easement encumbering John Ahlgren's property is not necessary. To clear up the title, the Legal Department recommends that the unnecessary easement be released. [See Exhibit A](#). Public Works is in agreement that the new utility easement approved by Council vote in 2013 properly encompasses both the existing and planned new infrastructure and release of the old 2003 easement is appropriate.

The City Council authorize the City Manager to release an easement from Mr. Ahlgren to the City found in the Rockingham County Registry of Deeds at Book 4186, Page 2604.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on December 8, 2014. In addition, this can be found on the City's website.
2. **Income and Expense Survey – 2015 Commercial Revaluation.** [Attached for your information is a memorandum from Rosann Maurice-Lentz, City Assessor](#), regarding an Income and Expense Survey that Assessing will begin mailing to commercial property owners throughout the City as part of the commercial revaluation for 2015.
3. **Report Back Re: Handicapped Spaces.** At the December 11, 2014 Parking, Traffic and Safety Committee meeting, the issue of handicapped parking was discussed. Following the meeting, Committee Chairman Bradley Lown raised additional concerns regarding handicapped parking. This comment was prepared to address the Chairman's concerns and to clarify some issues regarding handicapped parking.

In accordance with New Hampshire Revised Statutes Annotated (RSA) 265:74, any motor vehicle with handicapped plates or placard shall be allowed free parking in any city, including any municipal parking facility where a fee is charged. Each city shall have the discretion to set the time periods for handicapped parking, using guidelines provided by the Governor's Commission on Disability. Therefore, the City cannot charge handicapped people for parking. The City does have the ability to set and enforce time limits on vehicles with handicapped plates or placards. Given the limited availability of parking spaces in the Downtown Overlay District, time limits for non-handicapped spaces may be appropriate. However, prior to implementing time limits on vehicles with handicapped placards, further evaluation is required to determine the areas that are in need of time restrictions, the current time restrictions on the metered spaces in those areas, and the availability of designated handicapped spaces in those areas.

There are currently no minimum requirements for the number of on-street handicapped parking spaces that a city must provide. Current regulations only govern the number of handicapped parking spaces that must be provided in off-street parking facilities. Draft federal guidelines recommend that for every 25 on-street marked or metered spaces, one space, or 4 percent, should be reserved for handicapped parking. Based on the most recent count, the City provides 65 total handicapped parking spaces in the CBD. There are 16 on-

street handicapped parking spaces out of a total of 783 on-street spaces, equivalent to 2 percent of the downtown on-street spaces. If the Federal regulation changes, the City will need to add an additional 16 on-street handicapped spaces. This matter will be reviewed at the January 8, 2015 Parking and Traffic Safety Committee meeting.

4. **Report Back Re: Various Items.** On Monday, December 8, 2014, Councilor Kennedy asked for an update on the following items:

- a. **Master Plan.** Attached is the preliminary timeline for preparing the Master Plan, which was discussed by the Planning Board at its meeting on December 18, 2014. As currently envisioned, members of the Portsmouth community will have an opportunity to provide their ideas and comments at three points during the planning process. In the spring of 2015, before the planning staff and consultants begin work on the draft Master Plan, a series of meetings and other activities will be organized over a three-month period for residents to identify a community vision, goals and objectives. In the fall of 2015, another series of meetings will allow residents to review and comment on the draft Master Plan. Finally, residents will review and comment on the final Master Plan in early 2016 prior to its adoption by the Planning Board (currently targeted for March 2016).

This preliminary timeline will be refined further upon selection of a consultant team next month. At that time, a more detailed plan for public participation in the Master Plan process will be developed. This information will be published on the Planning Department's website at www.planportsmouth.com/masterplan.

- b. **Senior Center.** See attached memorandum from David Moore, Community Development Director.
- c. **Wastewater Treatment Facility.** At 7:00 PM on January 20, 2015, City Staff will present to the City Council items pertaining to wastewater facilities. In particular, the presentation will include a progress update on the Peirce Island Wastewater Treatment Facility design and the Pease Wastewater Treatment Options Evaluation. Topics for the Peirce Island Wastewater Treatment Facility design update will include the current status of design, an updated site plan, review of the cost estimates and next steps. Topics for the Pease Wastewater Treatment Options Evaluation update will a review of the proposed site plans for Citywide and regional (with Exeter and Stratham) wastewater treatment at the existing Pease Wastewater Treatment Facility site and the status of discussions with the Pease Development Authority related to these site plans. The Council will be asked for input on whether to continue the evaluation to develop a life cycle cost for the proposed layouts.
- d. **Helicopter Meetings.** None scheduled as of this date.
- e. **Review of Noise Ordinance/95 Barrier.** Discussion will take place during the Capital Improvement Plan Work Session scheduled for January 26, 2015.

5. **City Council Agenda Re: January 5, 2015.** For your information, the Mayor is requesting that the City Council Agenda for the Monday, January 5, 2015 meeting be sent out on Wednesday, December 31, 2014 due to the New Year's holiday and that all agenda items be submitted by the end of the day on Tuesday, December 30, 2014.