

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, JANUARY 5, 2015 TIME: 6:30PM

AGENDA

- I. CALL TO ORDER (6:30PM)
- II. ROLL CALL
- III. ANTICIPATED “NON-MEETING” WITH COUNSEL RE: PROPOSED EARLY RETIREMENT PROGRAM IN ACCORDANCE WITH RSA 91- A: 2, I (b)
- IV. INVOCATION
- V. PLEDGE OF ALLEGIANCE

PRESENTATION

1. Pedestrian and Bicycle Plan – Juliet Walker, Transportation Planner
- VI. ACCEPTANCE OF MINUTES – NOVEMBER 17, 2014, DECEMBER 8, 2014 AND DECEMBER 22, 2014
 - VII. PUBLIC COMMENT SESSION
 - VIII. PUBLIC HEARING
 - A. RESOLUTION IN THE AMOUNT OF FIVE HUNDRED FIFTY-FIVE THOUSAND FIVE HUNDRED DOLLARS (\$555,500.00) FOR A SUPPLEMENTAL APPROPRIATION RE: COLLECTIVE BARGAINING AGREEMENTS
 - IX. APPROVAL OF GRANTS/DONATIONS
 - A. Acceptance of Donation from Mark Wentworth Home in the amount of \$15,000.00 in support of the monthly Senior Luncheons (***Sample motion – move to approve and accept the donation from The Mark Wentworth Home, as listed***)
 - X. CONSIDERATION OF RESOLUTIONS AND ORDINANCES
 - A. Adoption of Resolution in the amount of Five Hundred Fifty-Five Thousand Five Hundred Dollars (\$555,500.00) for a Supplemental Appropriation Re: Collective Bargaining Agreements. (***Sample motion – move to adopt a Resolution in the amount of Five Hundred Fifty-Five Thousand Five Hundred Dollars (\$555,500.00) for a Supplemental Appropriation from Unassigned Fund Balance regarding Collective Bargaining Agreements in accordance with Section 7.14 of the City Charter (Two-thirds vote required for passage)***)

- B. Third and Final 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 accept the recommendation of the Planning Board that the Zoning Ordinance be amended as proposed and, further, move to pass third and final reading)**
- C. Third and Final 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 third and final reading of the proposed Ordinance as recommended by the Planning Board, as presented)**

XI. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

A. Acceptance of Police Department Grant and Donations:

- A Grant in the amount of \$7,391.00 from Susteen Advanced Mobile Forensics. The total cost of the equipment is \$12,390.00, the grant pays for \$7,391.00 of the cost and the matching funds of \$4,999.00 will come from the main ICAC funding Grant already in place
- Donation of a Gateway laptop computer by Homeland Security to the Portsmouth Police Department. This is forfeited equipment resulting from a New Hampshire Internet Crimes Against Children Task Force Case
- A Donation in the amount of \$25.00 from retired Police Commissioner William Mortimer in support of the Portsmouth Explorer Post
- A Donation in the amount of \$151.40 from retired Chief Dr. David “Lou” Ferland, in support of the Portsmouth Police Explorers
- A Donation to the Police Department from Newburyport Five Cents Savings Bank in the amount of \$500.00

(Anticipated action - move to approve and accept the grant and donations to the Portsmouth Police Department)

- B. Acceptance of Donation to the Fire Department from Newburyport Five Cents Savings Bank in the amount of \$500.00 **(Anticipated action - move to approve and accept the donation to the Portsmouth Fire Department)**

C. *Acceptance of Donation to the Coalition Legal Fund:

- Town of Carroll - \$1,000.00

(Anticipated action - move to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund)

- D. Letter from Emily Christian, National Multiple Sclerosis Society, Greater New England Chapter, requesting permission to hold the 2015 Bike MS NH Seacoast Escape on Saturday, August 22, 2015 **(Anticipated action – move to refer to the City Manager with power)**

XII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

(There are no written communications or petitions on for acceptance)

XIII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items Which Require Action Under Other Sections of the Agenda

1. Public Hearing and Adoption of Resolution:
 - 1.1 Public Hearing and Adoption of Resolution in the amount of Five Hundred Fifty Five Thousand Five Hundred Dollars (\$555,500.00) for a Supplemental Appropriation Re: Collective Bargaining Agreements (**Action on this item should take place under Section X of the Agenda**)
2. Third and Final Reading of Proposed Ordinances:
 - 2.1 Third and Final 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 item should take place under Section X of the Agenda**)
 - 2.2 Third and Final Reading regarding a 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 item should take place under Section X of the Agenda**)

City Manager's Items Which Require Action:

1. Ratification of Purchase of Property Re: 113 Cottage Street

Informational items

1. Events Listing
2. Report Back Re: Abandoned or Derelict Buildings

B. MAYOR LISTER

1. Joint Budget Committee Recommendation for FY16 Operating Budget (*See attached memorandum*) (**Sample motion – move to accept budget guidelines recommended from the Joint Budget Committee for the FY16 Operating Budget, as presented**)
2. *Report Back Re: Members to the Blue Ribbon Committee on the Sagamore Creek Land

At the City Council meeting on December 8, 2014, the Blue Ribbon Committee on Sagamore Creek Land was established. The charge of the Committee is to develop a plan for public usage of the 66-acre city-owned parcel. A report back to the City Council shall be completed on or prior to September 21, 2015:

The following Committee members have been appointed:

1. Councilor Eric Spear, Chairman, Council Representative
2. Councilor Christine Dwyer, Council Representative
3. Allison Tanner, Representative from the Conservation Commission
4. Lennie Mullaney, Representative from the School Board
5. Kory Sirmaian, Representative from the Recreation Board
6. John Mikolaites, Resident
7. Alison Pyott, Resident
8. Ex-officio City Manager, or his designees Non-Voting

3. Appointment to be Considered:

- Jay Leduc – Appointment to the Planning Board as a regular member (current alternate)
- Reagan Ruedig – Appointment to the Historic District Commission as a regular member (current alternate)
- Richard Shea – Appointment to the Historic District Commission as an alternate member

4. Resignations:

- Shelley Saunders from the Conservation Commission
- Tracy Kozak from the Historic District Commission

C. ASSISTANT MAYOR SPLAINE

1. AIRBNB – How we can make it work in Portsmouth (*See attached*)

D. COUNCILOR KENNEDY

1. *Commercial Properties and the potential Assessors letter being sent out by the City

E. COUNCILOR LOWN

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the November 13, 2014 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the November 13, 2014 Parking & Traffic Safety Committee meeting***)

F. COUNCILOR DWYER

1. Request for Work Session Re: Home-owner short-term rentals (*See attached*)

G. COUNCILOR THORSEN

1. Reconsideration of Adoption of Bonding Resolution of up to Six Hundred Thousand Dollars (\$600,000.00) for the Purchase of a Heavy Rescue Fire Truck

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 31, 2014
To: Honorable Mayor Robert J. Lister and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on January 5, 2015 City Council Agenda

6:30 p.m. Non-meeting with counsel in accordance with RSA 91-A:2, I (b) regarding proposed early retirement program.

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

Presentation:

1. **Pedestrian and Bicycle Plan.** Juliet Walker, Transportation Planner, will be presenting an overview of the City's Bicycle and Pedestrian Plan, which was prepared with consulting assistance from Toole Design Group. The Plan lays out a citywide bicycle and pedestrian network and provides recommendations to improve the safety, connectivity, and quality of facilities for biking and walking in the City. The Bicycle and Pedestrian Plan is a stand-alone document to guide planning, capital improvements and programming related to biking and walking, but it will also be incorporated into the Transportation chapter of the City's Master Plan.

Acceptance of Grants/Donations:

1. **Acceptance of Donation Re: Senior Luncheons.** [Attached is a letter from William Henson, President and CEO of The Mark Wentworth Home](#) regarding a donation to the City of \$15,000.00 in support of monthly Senior Luncheons.

I recommend that the City Council move to approve and accept the donation from The Mark Wentworth Home, as listed. Action on this matter should take place under Section IX of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. Public Hearing and Adoption of Resolution:

- 1.1 **Public Hearing and Adoption of Resolution in the amount of Five Hundred Fifty-Five Thousand Five Hundred Dollars (\$555,500) for a Supplemental Appropriation Re: Collective Bargaining Agreements.** As a result of the December 22, 2014 City Council meeting, under Section VIII of the Agenda, I am bringing back for public hearing and adoption the [attached proposed Resolution](#) in the amount of Five Hundred Fifty-Five Thousand Five Hundred Dollars (\$555,500) for a 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 unassigned 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)	\$ 95,000
Total	\$1,055,500
FY15 Appropriation	<u>(\$500,000)</u>
Amount Requested from Unassigned Fund Balance	\$ 555,500

Therefore, I recommend the City Council move to adopt a Resolution in the amount of Five Hundred Fifty-Five Thousand Five Hundred Dollars (\$555,500) for a Supplemental Appropriation from Unassigned Fund Balance regarding Collective Bargaining Agreements in accordance with Section 7.14 of the City Charter. (Two thirds vote is required for passage.) Action on this matter should take place under Section X of the Agenda.

2. Third and Final Reading of Proposed Ordinances:

- 2.1 **Third and Final 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 22nd City Council meeting, under Section X of the Agenda, I am bringing back for third and final 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. At its meeting on December 18, 2014, the Planning Board considered the proposed Ordinance and voted to recommend that the Zoning Ordinance be amended as proposed.

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.

I recommend the City Council move to accept the recommendation of the Planning Board that the Zoning Ordinance be amended as proposed and, further, move to pass third and final reading. Action on this item should take place under Section X of the Agenda

- 2.2 **Third and Final Reading regarding a Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.1110 – Off-Street Parking.** As a result of the December 22nd City Council meeting, under Section X of the Agenda, I am bringing back for third and final 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 third and final reading of the proposed Ordinance as recommended by the Planning Board, as presented. Action on this item should take place under Section X of the Agenda

Consent Agenda:

1. **Acceptance of Police Department Grant and Donations.** Attached under Section XI of the Agenda is a memorandum, dated December 17, 2014, from John F. Golumb, Chairman of the Portsmouth Police Commissioners, and Police Chief Stephen J. DuBois, requesting that the City Council approve the following grant and donations:

- a) A grant in the amount of \$7,391 from Susteen Advanced Mobile Forensics. The total cost of the equipment is \$12,390; the grant pays for \$7,391 of the cost and the matching funds of \$4,999 will come from the main ICAC funding Grant already in place.
- b) Donation of a Gateway laptop computer by Homeland Security to the Portsmouth Police Department. This is forfeited equipment resulting from a New Hampshire Internet Crimes Against Children Task Force case.
- c) A donation in the amount of \$25 from retired Police Commissioner William Mortimer in support of the Portsmouth Explorer Post.
- d) A donation in the amount of \$151.40 from retired Chief, Dr. David “Lou” Ferland, in support of the Portsmouth Police Explorers.
- e) A donation in the amount of \$500.00 from Newburyport Five Cents Savings Bank.

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

2. **Acceptance of Donation to the Fire Department.** Attached is a letter from Newburyport Five Cents Savings Bank regarding a donation in the amount of \$500.00 to the Portsmouth Fire Department.

I recommend that the City Council move to approve and accept the donation to the Portsmouth Fire Department. Action on this matter should take place under Section XI of the Agenda.

3. **Acceptance of Donation to the Coalition Legal Fund.** The City of Portsmouth has received the following donation to the Coalition Legal Fund, which will be utilized to continue our fight to eliminate the statewide property tax:

➤ Town of Carroll \$1,000.00

I would recommend the City Council move to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund. Action on this matter should take place under Section XI of the Agenda.

City Manager's Items Which Require Action:

1. **Ratification of Purchase of Property Re: 113 Cottage Street.** On Monday evening, I am requesting the City Council ratify the purchase of land and building adjacent to the Doble Center for \$270,000. In 2003, the property at 113 Cottage Street was purchased by the present owner for \$280,000.

As you can see in the [attached figure and listing sheet](#), 113 Cottage Street abuts the former Paul A. Doble Reserve Center also on Cottage Street. Acquisition of this parcel will have multiple benefits for the City's future use of the Doble property. These include adding additional square footage to the Doble parcel, thereby, making more outdoor space available. In addition, City control of this property may eliminate conflicts between a more intensive use of the Doble Center and this adjacent residential use by future owners. Funding for the purchase of this property could come from the proceeds of the sale of the Mariner Park Associates Property which in August 14, 2000 the City Council voted that the proceeds from this property be used for property acquisitions, land conservation, and recreational purposes. (This fund has a balance of \$502,000.) The purchase of this property falls within the categories authorized by the City Council.

Therefore, I recommend the City Council ratify the purchase of 113 Cottage Street in the amount of \$270,000 from the aforementioned fund, and, further, refer this matter to the Planning Board for their advisory review.

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 22, 2014. In addition, this can be found on the City's website.
2. **Report Back Re: Abandoned or Derelict Buildings.** On September 30, 2014, the City Attorney provided you with [the attached memorandum](#) regarding abandoned or derelict buildings. In his memorandum, there are certain conditions in which the City can take action against hazardous and dilapidated buildings. It appears that in the cases cited by residents on abandoned or dilapidated buildings that the City may not be successful in the courts in correcting or alleviating these problem properties. Although there are a small number of properties in the City of Portsmouth that fall into this category, they are still a

significant nuisance to the neighborhood that they are located in. I asked the City Attorney to investigate the possibility of using eminent domain to remedy blighted or derelict buildings which have been abandoned for more than five years and present a nuisance to the neighborhoods in which they are located ([see attached memorandum](#)). At this time, I am not recommending the use of eminent domain for this purpose but rather bring it to you for further discussion by yourself and the public for a possible remedy for this persistent problem. I would recommend that on February 9, 2015, the City Council meet in a work session at 6:30 p.m., to discuss this matter further.