

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, MARCH 7, 2016 TIME: 7:00PM

AGENDA

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

PRESENTATIONS

- 1. Seacoast Family Food Pantry, Deb Anthony, Executive Director
- 2. Trees and Public Greenery Committee Annual Report, Peter Loughlin, Chair

V. ACCEPTANCE OF MINUTES – *(There are no minutes on for acceptance this evening)*

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARINGS

- A. RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF THE CITY UNDER THE MUNICIPAL FINANCE ACT AND/OR PARTICIPATION IN THE STATE REVOLVING FUND (SRF) LOAN OF UP TO SEVENTY FIVE MILLION DOLLARS (\$75,000,000.00) FOR COSTS RELATED FOR THE CONSTRUCTION OF THE PEIRCE ISLAND WASTEWATER TREATMENT FACILITY
- B. RESOLUTION AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM UNASSIGNED FUND BALANCE FOR NECESSARY EXPENDITURES RELATED TO MIDDLE SCHOOL CONSTRUCTION OF UP TO SIX HUNDRED FIFTY THOUSAND (\$650,000.00) DOLLARS

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Police Department Grant in the amount of \$30,000.00 from the NH Department of Justice for the 2016 Violence Against Women Grant Program ***(Sample motion – move to approve and accept the grant to the Portsmouth Police Department)***
- B. Approval and Acceptance of Donation Re: Bench from Richard and Janice Trafton in memory of their daughter Catherine Trafton in the amount of \$2,000.00 ***(Sample motion – move to approve and accept the donation for a bench, as presented)***

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Adoption of Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Seventy Five Million Dollars (\$75,000,000.00) for Costs related for the Construction of the Peirce Island Wastewater Treatment Facility ***(Sample motion – move to adopt a Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Seventy-Five Million (\$75,000,000) Dollars for Costs Related for the Construction of the Peirce Island Wastewater Treatment Facility, as presented. (Roll Call Vote Required)***
- B. Adoption of Resolution Authorizing a Supplemental Appropriation from Unassigned Fund Balance for Necessary Expenditures related to Middle School Construction of up to Six Hundred Fifty Thousand (\$650,000.00) Dollars ***(Sample motion – move to adopt a Resolution authorizing a supplemental appropriation from Unassigned Fund Balance the sum of up to Six Hundred Fifty Thousand (\$650,000.00) Dollars for Necessary Expenditures Related to the Middle School Construction, as presented. (Roll Call Vote Required)***

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Deidre Reynolds, NH Chapter Leader for Moms Demand Action requesting permission to hold a Mother's Day week Bridge Walk for Gun Sense and to honor victims of gun violence on May 14, 2016 ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Molly Bolster, Executive Director and Matt Glenn, Captain, Gundalow Company requesting the use of Peirce Island launch ramp and related parking area for the Round Island Regatta on July 30, 2016 ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Richard B. Wagner, Executive Director of AIDS Response Seacoast requesting permission to conduct the 20th Annual Seacoast AIDS Walk and Dog Walk on Sunday, May 1, 2016 ***(Anticipated action – move to refer to the City Manager with power)***
- D. Request for Approval of Pole License to install 2 replacement poles located on Market and Bow Street intersection ***(Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes)***
- E. Request for Approval of Pole License to install 1 replacement pole with guy-wire located on Sagamore Avenue ***(Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes)***

- F. Request for Approval of Pole License to install 1 replacement pole and guy-wire located on Sherburne Avenue approximately 120' from Elwyn Avenue intersection (***Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes***)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Joseph R. Russell, Attorney for Maplewood Ridge LLC, Re: Request for Zoning Amendment – 678 Maplewood Avenue Parcel One (Tax Map 220, Lot 89) Parcel Two (Tax Map 220, Lot 90) (***Sample motion – move to refer to the Planning Board for report back***)

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

1. Peirce Island Consent Decree Second Modification with Environmental Protection Agency (EPA) et al.
2. Adoption of the Capital Improvement Plan (CIP) FY2017-2022
<http://planportsmouth.com/2017-2022CapitalImprovementPlan.pdf>
3. Request for Approval of Tapping Maple Trees Re: City-owned Property on Lang Road

Informational items

1. Events Listing
2. Report Back Re: Riverbrook Condos–Water and Sewer Billing and Trash Removal Costs
3. City Council Retreat Agenda

B. MAYOR BLALOCK

1. Appointments to be Considered:
 - Richard Winstanley reappointment to the Cable Television & Communications Commission
 - Colby Gamester reappointment to the Planning Board
 - Todd Henley reappointment to the Recreation Board
 - Tristan Law reappointment to the Transportation Service Commission
 - Mike Merando appointment to the Transportation Service Commission
2. *Working Group Re: Deer Street Property Negotiations
 - Councilor Perkins
 - Councilor Lown
 - Councilor Spear

C. ASSISTANT MAYOR SPLAINE

1. *Request for an updated appraisal of the land considered for purchase for the parking garage

D. COUNCILOR LOWN

1. Parking & Traffic Safety Action Sheet and Minutes of the February 4, 2016 meeting
(Sample motion – move to approve and accept the action sheet and minutes of the February 4, 2016 Parking & Traffic Safety Committee meeting)

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

XIV. ADJOURNMENT

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

**Indicates Verbal Report*

INFORMATIONAL ITEMS

1. 2015 Board and Commission Attendance Records
2. Notification that the minutes of the January 21, 2016 meeting of the Planning Board are now available on the City's website
3. Notification that the minutes of the January 5, 2016 meeting of the Site Review Technical Advisory Committee are now available on the City's website
4. Notification that the minutes of the January 19, 2016 and January 26, 2016 of the Zoning Board of Adjustment 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: March 3, 2016

To: Honorable Mayor Jack Blalock and City Council Members

From: John P. Bohenko, City Manager 

Re: City Manager's Comments on March 7, 2016 City Council Agenda

Presentations:

1. **Seacoast Family Food Pantry.** On Monday evening, Deb Anthony, Executive Director of the Seacoast Family Food Pantry, will make a presentation to the City Council regarding an overview of challenges facing the food pantry.
2. **Trees and Public Greenery Committee Annual Report.** Peter Loughlin, Chair of the Trees and Public Greenery Committee, will give an annual report regarding the Committee's activities.

Acceptance of Grants and Donations:

1. **Acceptance of Police Department Grant.** [Attached under Section VIII of the Agenda is a memorandum](#), dated February 17, 2016, from Kathleen M. Levesque, Office of the Chief. At the February 16, 2016 Police Commission meeting, the Board of Police Commissioners approved and accepted the following grant:
 - a) A grant in the amount of \$30,000 from the NH Department of Justice for the 2016 Violence Against Women Grant Program. This grant funds the victim witness advocate position in their court office.

The Police Commission requests the City Council approve the grant.

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

2. **Approval and Acceptance of Donation Re: Bench.** The City of Portsmouth has received a donation from Richard and Janice Trafton in the amount of \$2,000 for the purchase and installation of a bench in the West End in memory of their daughter Catherine Trafton.

I recommend the City Council move to approve and accept the donation for a memorial bench, as presented. Action on this matter should take place under Section VIII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. **Public Hearing/Adoption of Proposed Resolutions.**
 - 1.1 **Public Hearing and Adoption of a Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Seventy-Five Million (\$75,000,000) Dollars for Costs Related for the Construction of the Peirce Island Wastewater Treatment Facility.** As a result of the February 16, 2016 City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and adoption the [attached Resolution](#) Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Seventy-Five Million (\$75,000,000) Dollars for Costs Related for the Construction of the Peirce Island Wastewater Treatment Facility.

A list of frequently asked questions regarding the construction of the Peirce Island Wastewater Treatment Plant can be found on the City's webpage <http://www.portsmouthwastewater.com>.

The City is also recommending a review of the materials on the resources page <http://www.portsmouthwastewater.com/resources.html>.

On Monday evening, Terry Desmarais, City Engineer for Water/Sewer Divisions, and Suzanne Woodland, Deputy City Attorney, will be making a presentation that includes an overview of the history of the Peirce Island Wastewater Treatment Plant, which will include the studies and City Council actions to date ([see attached presentation by Terry Desmarais](#)). In addition, David Hyder, the City's consultant, will be reviewing the rate model for financing the project.

I recommend the City Council move to adopt a Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Seventy-Five Million (\$75,000,000) Dollars for Costs Related for the Construction of the Peirce Island Wastewater Treatment Facility, as presented. Action on this matter should take place under Section IX of the Agenda. (6 votes for approval, roll call vote required)

1.2 **Public Hearing and Adoption of a Resolution Authorizing a Supplemental Appropriation from Unassigned Fund Balance the sum of up to Six Hundred Fifty Thousand (\$650,000) Dollars for Necessary Expenditures Related to Middle School Construction.** As a result of the February 16th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and adoption the [attached Resolution](#) Authorizing a Supplemental Appropriation from Unassigned Fund Balance the sum of up to Six Hundred Fifty Thousand (\$650,000) Dollars for Necessary Expenditures Related to Middle School Construction.

As you are aware, Joint Building Committee Co-Chairs Christine Dwyer and Dexter Legg seek approval from the City Council to appropriate up to \$650,000 from fund balance for necessary expenditures related to the Middle School Construction.

When funds for the permanent shoring effort are obtained through negotiated resolution or litigation, recovered amounts would be returned to the City. As reported last year to the City Council, the Portsmouth Middle School, a 1930s building has been experiencing differential settlement due to apparent design and construction activities associated with its expansion and renovation. The City has undertaken expert review and consultation about the reasons for the settlement and the proposed mitigation. The City has put various firms involved in the design and construction on notice of potential claims during the investigation, provided them with information from the investigation, and sought resolution through mediation.

The co-chairs seek this commitment of funds now so that permanent repairs can be undertaken during the school summer break. The differential settlement has slowed sufficiently that it would be most expeditious and cost effective to undertake the permanent repairs this year. Temporary shoring and regular inspection have been used during this interim period to ensure safe use and occupancy. The schedule for bidding and ordering of steel requires timely attention.

Any funds received by the City from settlement or litigation will be put back into fund balance.

I recommend the City Council move to adopt a Resolution authorizing a Supplemental Appropriation from Unassigned Fund Balance the sum of up to Six Hundred Fifty Thousand (\$650,000) Dollars for Necessary Expenditures Related to the Middle School Construction, as presented. Action on this matter should take place under Section IX of the Agenda. (6 votes for approval, roll call vote required)

City Manager's Items Which Require Action:

1. **Peirce Island Consent Decree Second Modification with Environmental Protection Agency (EPA) et al.** For the City Council's consideration is a proposed agreement to extend the existing compliance deadlines to upgrade the Peirce Island Wastewater Treatment Facility (WWTF). The City of Portsmouth has been engaged in negotiations with the Environmental Protection Agency (EPA), the United States Department of Justice (DOJ), the New Hampshire Department of Environmental Services (NH DES), the New Hampshire Attorney General's Office, and the Conservation Law Foundation ("CLF"), following the City's filing of its Statement of Position on December 10, 2015 as part of a formal dispute resolution process. This agreement incorporates a schedule appropriate for this project.

Attached is a memorandum from Deputy City Attorney Suzanne M. Woodland and City Engineer Terry Desmarais that provides a summary of the key components of the agreement and staff comment. A complete copy of the proposed Consent Decree Second Modification is also attached.

With such an agreement, the risk of substantial penalties, as well as the costs of litigation, are avoided. Also avoided are the extraordinary remedies that could be imposed by the Court, such as a moratorium on new construction

On Monday evening, Suzanne Woodland, Deputy City Attorney, will make a presentation regarding this matter (see attached presentation).

I recommend the City Council move to authorize the City Manager to execute the Consent Decree Second Modification relative to the Peirce Island Wastewater Treatment Facility Upgrade, as presented.

2. **Adoption of Capital Improvement Plan (CIP) FY2017-2022.** In accordance with Section 7.7 of the City Charter, the City Council conducted a public hearing on Monday, February 16, 2016, regarding the proposed Capital Improvement Plan for FY2017-2022. In addition to the public hearing, the City Council held a work session on February 8, 2016. At the work session, a presentation of the proposed Capital Plan was made by the City staff. Also, copies of the Plan were made available to the public, as well as put on file with the City Clerk's Office and the Public Library. Further, the CIP for FY2017-2022 is available on the City's website <http://planportsmouth.com/2017-2022CapitalImprovementPlan.pdf>.

As I indicated at the public hearing, the City Council is required, in accordance with Section 7.8 of the City Charter, to adopt the Capital Plan subsequent to the Public Hearing and before the City Manager submits the budget to the City Council. I anticipate that I will be transmitting my proposed FY2017 budget to you on or about April 29, 2016.

Given that projected date, I am suggesting the City Council adopt the proposed Capital Improvement Plan at Monday evening's meeting.

I would recommend the City Council adopt the Capital Improvement Plan for FY 2017–FY 2022.

3. **Request for Approval of Tapping Maple Trees Re: City-owned Property on Lang Road.** Attached is an e-mail from Chris Olsen of Syrup by the Sea, requesting the tapping of maple trees on City-owned property off Lang Road (formerly the old Stetson property). This 40 acre city-owned land is in an agricultural use agreement with the Stetson family. Also, attached is a letter from David Stetson supporting this activity as a good use of the land. City staff and I have met with Chris Olsen to discuss this matter and action on this matter would require the City Council to authorize the City Manager to negotiate an agreement with Mr. Olsen.

Therefore, I recommend the City Council move to approve the use of the city-owned property off Lang Road for the tapping of maple trees, and further, authorize the City Manager to negotiate and execute an agreement.

Informational Items:

1. **Events Listing.** For your information, attached is a copy of the Events Listing updated after the last City Council meeting on February 16, 2016. In addition, this can be found on the City's website.
2. **Report Back Re: Riverbrook Condos - Water and Sewer Billing and Trash Removal Costs.** As you will recall at the February 1, 2016 City Council meeting, the Council referred the attached letter from Roy W. Helsel, President of Riverbrook Condo Association to the City Manager with power and a report back to the City Council. Attached is a letter from Brian Goetz, Deputy Director of Public Works and a memorandum from Jacob Levenson, Solid Waste & Sustainability Coordinator, regarding the Condo Association's request for an annual abatement on their water/sewer and trash removal costs.
3. **City Council Retreat Agenda.** As you are aware, the City Council Retreat is scheduled for Saturday, March 12, 2016 from 8:30 a.m. to 4:00 p.m., in the Levenson Room at the Portsmouth Public Library (see attached Agenda).