

TO: JOHN P. BOHENKO, CITY MANAGER

FROM: KELLI L. BARNABY, CITY CLERK

RE: ACTIONS TAKEN BY THE PORTSMOUTH CITY COUNCIL MEETING HELD ON MONDAY, NOVEMBER 20, 2017 MEETING, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, MUNICIPAL COMPLEX, ONE JUNKINS AVENUE, PORTSMOUTH, NEW HAMPSHIRE

PRESENT: MAYOR BLALOCK, ASSISTANT MAYOR SPLAINE, COUNCILORS PERKINS, DWYER, PEARSON, CYR AND DENTON

ABSENT: COUNCILORS LOWN AND SPEAR

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1. At 6:30 p.m., a Work Session was held regarding Portsmouth Listens Study Circles.
2. Presentation – Rockingham County Update – Kevin St. James, Rockingham County Commissioner – Commissioner St. James provided an update on Rockingham County. He reported that Rockingham County employs 700 employees with a budget of \$81,000,000.00. He spoke to services provided to the City through the nursing home and the jail system. He also addressed that the County is changing their fiscal year and this year they will have an 18 month budget but nothing will change with the billing to communities.
3. Coakley Landfill Group Update – Peter Britz, Environmental Planner – Environmental Planner Britz provided an update regarding the Coakley Landfill Group. He spoke to the upkeep of landfill site. He reported no contaminants were found in the drinking water wells. He addressed the deep bedrock study being conducted near the site which will have multiple steps. He also spoke regarding the November 15<sup>th</sup> meeting held by the group at North Hampton and the meeting is on-line and urged people to review it.
4. Acceptance of Minutes – October 2, 2017 – **Voted** to approve and accept the minutes of the October 2, 2017 City Council meeting.
5. Public Comment Session – There were 5 speakers: Pat Bagley (Gifted Land); Mary Lou McElwain (McIntyre and Zagster); Erik Anderson (Contracts); Bill Downey and Paige Trace (McIntyre).
6. Public Hearing/Second reading Re: Zoning Ordinance Amendments – Off Street Parking – Chapter 10, Article 11 – Site Development Standards; Article 15 – Terms of General Applicability and Article 8 – Supplemental Use Standards – Held a public hearing. Moved to pass second reading and schedule a third and final reading on the proposed Zoning Ordinance Amendments to the off-street parking regulations at the December 4, 2017 City Council meeting, as presented.

Second Reading – Revisions since First Reading:

- Change the residential parking ratio for the Downtown Overlay District to 1.3 spaces/unit
- Reduce parking requirement for dwellings over 750 sq. ft. to 1.3/unit
- Add a requirement for additional visitor spaces
- Change eating and drinking places requirement back to 1 per 100 sq. ft.
- Add provision to allow Planning Board (by conditional use permit) to grant a reduction in the required minimum parking spaces
- Reduce maneuvering aisle width to 22 feet in parking garages and for aisles serving fewer than 7 spaces

On a roll call 5-2, **voted** to postpone second reading until the next meeting. Assistant Mayor Splaine, Councilors Dwyer, Cyr, Denton and Mayor Blalock voted in favor. Councilors Perkins and Pearson voted opposed.

Councilor Dwyer requested the Planning Department to report back regarding required parking for Accessory Dwelling Units.

7. Public Hearing/Second reading Re: Gateway Mixed Use District Zoning Amendments – Chapter 10, Article 5B – Gateway Mixed Use Districts; Article 5A – Character-Based Zoning; and Article 4 – Zoning Districts and Use Regulations – Held a public hearing. **Voted** postpone second reading until the December 4, 2017 City Council meeting for the Planning Board to report back with clarifications regarding the percentage of affordable residential units and the creation of village and neighborhood centers.

Second Reading – Revisions since First Reading:

- Purpose statement has been expanded to reiterate the goals of the City's recently adopted Master Plan
- Clarification of requirements for building setbacks, internal separation between buildings, and no-build buffers on the perimeter of development sites
- Inserted a maximum building length requirement for residential and mixed use building types
- Created general standards for front lot line occupation
- Modified the requirements for a front addition on a pre-existing building to be less restrictive in order to encourage redevelopment
- Expanded which standards can be modified by the Planning Board in granting a conditional use permit for a density bonus incentive

8. Public Hearing/Second reading to Amend Chapter 12 by Adopting the 2009 International Building Code and 2009 International Residential Code to Replace the Existing 2006 Versions – Held a public hearing. **Voted** to amend the form of the ordinance amending Chapter that went to first reading as set forth in the memorandum from the Legal Department to the Acting City Manager dated November 15, 2017. Councilor Pearson voted opposed.

Amendment to effective date of the ordinance shall take effect as of January 1, 2018.

**Voted** to pass Chapter 12 as amended and to bring forward for third and final reading at the December 4, 2017 City Council meeting.

9. Public Hearing/Second reading to Amend Chapter 15 by Adopting the 2009 International Plumbing and Mechanical Codes to Replace the Existing 2006 Version. This also include local amendments to the 2014 National Electrical Code – Held a public hearing. **Voted** to amend the form of the ordinance amending Chapter 15 that went to first reading as set forth in the memorandum from the Legal Department to the Acting City Manager dated November 15, 2017.

Amendments to Chapter 15:

- Amendment to effective date of the ordinance shall take effect as of January 1, 2018.
- Amend subsection 5.6.3.4 by deleting the following sentence at line 1141 through 1143 and replace with the sentence below:

~~Corrugated stainless steel tubing may only be used in 1 and 3 family dwelling units and townhouses with firewalls constructed per Section 7006 of the 2009 International Building Code.~~

Corrugated Stainless Steel; Tubing must be installed in accordance with the manufacturers' installation instructions for specific construction types. A third party inspection may be required pursuant to Chapter 17, Section 1704 of the International Building Code.

- Incorporate the following amendment to correct the date of the current version of the NATIONAL ELECTRICAL CODE by amending Chapter 15, Part IV of the Ordinance: Part IV – NATIONAL ELECTIRCAL CODE 2017
- The City of Portsmouth adopts the State Building Code, which adopts by reference The National Electrical Code, 2017 (NEC) as Chapter 15, Part IV
- Amendment to effective date of ordinance shall take effect as of January 1, 2018.

Moved to pass Chapter 15 as amended and to bring forward for third and final reading at the December 4, 2017 City Council meeting. On a roll call vote 5-2, motion passed. Councilors Perkins, Dwyer, Cyr, Denton and Mayor Blalock voted in favor. Assistant Mayor Splaine and Councilor Pearson voted opposed.

10. At 10:30 p.m., **voted** to suspend the rules in to continue the meeting beyond 10:00 p.m.

11. Public Hearing/Second reading to Amend Chapter 5, Fire Department and Prevention Regulation which includes Adoption of 2015 International Fire Code to Replace the Existing 2006 International Fire Code – **Voted** to amend the form of the ordinance amending Chapter 5 that went to first reading as set forth in the memorandum from the Legal Department to the Acting City Manager dated November 15, 2017.

Amendments to Chapter 5:

- Amend Chapter 5, Article IX by deleting the first paragraph at lines 296 through 299 and replacing it with the following:  
The City of Portsmouth formally adopts ~~Saf-C 6000 (The State Fire Code) published by the National Fire Protection Association, by adopting by reference the Life Safety Code 2015 Edition and the Uniform Fire Code NFPA1, 2009 Edition, as published by the National Fire Protection Association and as amended by the State Board of Fire Control.~~  
  
The City of Portsmouth formally adopted the “New Hampshire Fire Code”. This includes the N.H. Code of Administrative Rules, Chapter Saf-C 60000 and is defined in NH RSA 153:VI-a as the adoption by reference of the Life Safety Code 2015 Edition and the Uniform Fire Code NFPA1, 2009 Edition, as published by the National Fire Protection Association and as amended by the State Board of Fire Control.
- Amendment to effective date of the ordinance shall take effect as of January 1, 2018.

Moved to postpone second reading to provide an alternative for a review process to allow more solar.

Councilor Pearson requested the staff to provide visual aids to allow the City Council to see what the Fire Department is referring to relative to the solar matter.

On a roll call **vote** 6-1, motion passed. Assistant Mayor Splaine, Councilors Perkins, Dwyer, Pearson, Cyr and Denton voted in favor. Mayor Blalock voted opposed.

12. **Voted** to suspend the rules in order to take up Item XI. A.1. – Request for Approval of the Tentative Agreement between the Fire Commission and the Firefighters Association of Portsmouth, New Hampshire Local #1313 Tentative Agreement and XI. A.2. – Request for Approval of the Tentative Agreement between the Fire Commission and The Portsmouth Professional Fire Officers Association Tentative Agreement and further remove the items from the City Manager’s Consent Agenda.
13. Request for Approval of the Tentative Agreement between the Fire Commission and the Firefighters Association of Portsmouth, New Hampshire Local #1313 Tentative Agreement – **Voted** to accept the proposed Tentative Agreement for a one-year extension to the existing contract between the Portsmouth Fire Commission and the Firefighters Association of Portsmouth, New Hampshire Local #1313 until June 30, 2019.

14. Request for Approval of the Tentative Agreement between the Fire Commission and The Portsmouth Professional Fire Officers Association Tentative Agreement – **Voted** to accept the proposed Tentative Agreement for a one-year extension to the existing contract between the Portsmouth Fire Commission and The Portsmouth Professional Fire Officers Association until June 30, 2019.

15. Second reading of Proposed Ordinance Amendments to Chapter 4 Pertaining to the City's Food Licensing and Regulations by Striking Article I-V in its entirety and replace with new language (Postponed from September 5, 2017 City Council Meeting) – **Voted** to amend the form of the ordinance that was passed at first reading on August 27, 2017 and was amended at second reading on October 16, 2017 as set forth in the redline amendments to the proposed ordinances included in the agenda packet at item VII. E.

**Voted** to pass Chapter 4 as amended and to bring forward for third and final reading at the December 4, 2017 City Council meeting.

16. Acceptance of Police Department Grants & Donation:

- Donation from the Estate of Geraldine Webber – Final Disbursement of Funds to the Portsmouth Police Department - \$2,663.47
- Internet Crimes Against Children Task Force Grant – ICAC Task Force satellites in NH - \$264,256.00
- NH Highway Safety Grants
  - a. STEP Grant for Traffic Enforcement - \$15,940.28
  - b. DWI Patrol Grant - \$14,547.00
  - c. Pedestrian/Bicycle Patrol Grant - \$6,157.20
  - d. Sobriety Checkpoints Grant - \$7,426.56
  - e. Distracted Driving Grant - \$7,157.20

**Voted** to accept and approve the grants and donation to the Portsmouth Police Department, as presented.

17. Acceptance of Fire Department Donations:

- Donation of a disbursement check in the amount of \$188,129.88 from the Estate of Geraldine W. Webber. This donation is the final disbursement of funds to the Portsmouth Fire Department
- \*Donation from G. Willikers LLC in the amount of \$55.00 for fire prevention and awareness costs

**Voted** to accept and approve the donations to the Portsmouth Fire Department, as presented.

18. Acceptance of Community Development Block Grant Funds – **Voted** to accept and expend a Community Development Block Grant (CDBG) in the amount of \$513,580.00 from the U.S. Department of Housing and Urban Development.

19. Acceptance of Donation Re: John McMaster Memorial Bench – **Voted** to accept and approve the donation for the John McMaster Memorial Bench, as presented.

20. Acceptance of sponsorship for Zagster Bike Share Station from Portwalk Place for \$9,000.00 per year for two years – **Voted** to accept and approve the sponsorship from Portwalk Place for the Zagster Bike Share Station.

21. Consent Agenda – **Voted** to adopt the Consent Agenda.

- A. Letter from Emily Christian, National Multiple Sclerosis Society requesting permission to hold the 2018 Bike MS NH Seacoast Escape on Saturday, August 25, 2018 (***Anticipated action – move to refer to the Acting City Manager with power***)
- B. Letter from Lilia Potter-Schwartz requesting to hold the 3<sup>rd</sup> Annual Race To Educate on Sunday, May 27, 2018 at 12:30 p.m. (***Anticipated action – move to refer to the Acting City Manager with power***)
- C. Request for License to Install Projecting Sign from Friends of the Music Hall owner of The Music Hall for property located at 28 Chestnut Street (***Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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 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 to Install Projecting Sign from VPC LLC owner of Office Resources for property located at 28 Deer Street (***Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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 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. Request for License to Install Projecting Sign from Jamer Realty Inc. owner of The Wilder for property located at 174 Fleet Street (**Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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 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**

- F. Request for License to Install Projecting Sign from Andover Portland Avenue Assoc. LLC owner of Pretty Little Things for property located at 10 Vaughn Mall (**Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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 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**

22. Letter from Greg Mahanna, Pheasant Lane Homeowners Association expressing their opposition to the proposed expansion of the Gateway Mixed Zoning area, specifically, the inclusion of the St. James church property in the mixed-use expansion (**Sample motion – move to accept and place the letter on file**)

Letter from Paul Harrington, Diocese of Manchester, regarding Expansion of Gateway Corridor (**Sample motion – move to accept and place the letter on file**)

Letter from Mike Somers, President and CEO, New Hampshire Lodging & Restaurant Association, regarding the update of Chapter 4, Articles I-V of the ordinances of the City of Portsmouth (**Sample motion – move to accept and place the letter on file**)

Letter from Karyn P. Forbes, Attorney-at-Law, Shaheen & Gordon, regarding Proposed amendment to Chapter 15, Part III, Fuel Gas Installations (**Sample motion – move to accept and place the letter on file**)

**Voted** to take action on the items listed above to accept and place the letters on file.

23. Letter from Neil Robinson request for a quit claim to release the City's interest in the paper street portions of Moffat Street adjoining property located at 170 Swett Avenue – **Voted** to refer to the Planning Board for report back.

24. The City Council agreed to remove Item XI. A.9. – Request to Reschedule November 27, 2017 Work Session re: McIntyre Property from the Acting City Manager’s Consent Agenda.
25. Request to Reschedule November 27, 2017 Work Session re: McIntyre Property from the Acting City Manager’s Consent Agenda – **Voted** to reschedule the Work Session to Wednesday, November 29, 2017 and that the Public Dialogue on the December 4, 2017 City Council meeting be dedicated to the McIntyre Project.
26. Acting City Manager’s Consent Agenda – **Voted** to adopt the Acting City Manager’s Consent Agenda.
- Report Back from Planning Department Re: Involuntarily Merged Lot at 346 Bartlett Street – ***(Anticipated action – move to accept the Planning Board’s recommendation, as presented)***  
  
Planning Board’s Recommendation
    - *Restore the involuntarily merged lots to their premerger status as requested.*
  - Holiday Parking - ***(Anticipated action – move to authorize the City Manager to implement a 7-day free holiday parking period from December 18<sup>th</sup> to December 24<sup>th</sup>)***
  - Report Back Re: Community Home Solutions PILOT Agreement – ***(Anticipated action – move to authorize the City Manager and the City Assessor to negotiate a PILOT Agreement with Community Home Solutions and bring it back for City Council action)***
  - Request to Dispose of Surplus Vehicles and Equipment – ***(Anticipated action – move to authorize the City Manager to dispose of surplus vehicles and equipment using GovDeals)***
  - Request Re: Installation of Fencing and Signage for the Jay Smith Memorial Garden, the Lower State Street Pocket Park – ***(Anticipated action – move to approve the aforementioned request, authorize the City Manager to execute any necessary documents, and further, the group to apply to the Historic District Commission and the Trustees of the Trust)***
27. The City Council agreed to remove Item XI. A.5. - Charles Lassen’s Proposal for Dock Space from the Acting City Manager’s Consent Agenda.
28. Charles Lassen’s Proposal for Dock Space – **Voted** to approve the proposed Agreement, and further, authorize the City Manager to proceed with executing the document.

29. Appointment to be Considered – The City Council considered the appointments listed below which will be acted upon at the December 4, 2017 City Council meeting.
- Appointment of Adrienne Harrison (current alternate) as Regular member to the Conservation Commission
  - Appointment of Nathalie Morison as an Alternate member to the Conservation Commission
  - Reappointment of Jim Lee to the Zoning Board of Adjustment
  - Appointment of Peter McDonell (current alternate) as a Regular Member to the Zoning Board of Adjustment
30. Appointments to be Voted – **Voted** to appoint Cyrus Beer as an Alternate to the Historic District Commission and reappoint Dana Levenson to the Economic Development Commission.
31. Resignations – **Voted** to accept with regret the resignations of Matthew Cardin from the Conservation Commission and Fred “Ted” Gray, Jr. from the Parking & Traffic Safety Committee effective December 31, 2017.
32. Appointment of City Councilors to the Joint Budget Committee – Mayor Blalock announced that Councilor Perkins and Councilor Dwyer will be serving on the Joint Budget Committee.
33. Parking & Traffic Safety Committee Action Sheet and Minutes of the November 2, 2017 meeting – **Voted** to accept and approve the action Sheet and Minutes of the November 2, 2017 Parking & Traffic Safety Committee meeting.
34. Parrott Avenue Parking – half employee parking//half metered parking to be when the Foundry Place Garage is completed and the City has instituted the residential parking program – Moved to bring back for First Reading at the December 4, 2017 City Council meeting. *Councilor Cyr withdrew his motion.*
35. Liquor Enforcement Board – Moved that City Staff report back on the role the Liquor Enforcement Board plays in regards to the State Liquor Commissions’ liquor license letter requirement. *Councilor Denton withdrew his motion.*
- Councilor Denton requested that information on the Liquor Committee be posted to the website.
36. Adjournment – At 12:30 a.m., **voted** to adjourn.

Respectfully submitted by:

Kelli L. Barnaby, MMC, CMC, CNHMC  
City Clerk