

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, MARCH 6, 2017 TIME: 7:00 PM

AGENDA

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

- V. ACCEPTANCE OF MINUTES – FEBRUARY 6, 2017 AND FEBRUARY 21, 2017

- VI. PUBLIC COMMENT SESSION

- VII. APPROVAL OF GRANTS/DONATIONS
 - A. *Acceptance of Donation from Wentworth Senior Living, Sponsorship of Senior Luncheon Program - \$15,000.00 (**Sample motion – move to accept and approve the donation to the Senior Luncheon program, as presented**)
 - B. Acceptance of Donation of a disbursement check in the amount of \$105,687.00 from the Estate of Geraldine W. Webber (**Sample motion – move to accept and approve the donation to the Police Department, as presented**)

- VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES
 - A. First reading of proposed Ordinance amending Chapter 3, Article II, Section 3.208 - Regulation of Single Use Carryout Plastic Bags
 - B. Third and final reading of proposed Ordinance amending Chapter 7, Article I, Section 7.115 – Sign Permit Required for Private Parking Lot

- IX. CONSENT AGENDA
 - A. Letter from Mike St. Laurent, LOCO Sports, LLC, requesting permission to hold a half marathon road race on Sunday, April 23, 2017 at 8:00 a.m. (**Anticipated action – move to refer to the City Manager with power**)
 - B. Letter from Molly Bolster and Matt Glenn, Gundalow Company, requesting permission to hold the 7th annual Round Island Regatta on Saturday, August 19, 2017 (**Anticipated action – move to refer to the City Manager with power**)
 - C. Letter from Ken La Valley, American Foundation of Suicide Prevention, requesting permission to hold the Out of the Darkness Community Walk on Saturday, September 16, 2017 at 10:00 a.m. (**Anticipated action – move to refer to the City Manager with power**)

D. Request for License to Install Projecting Sign:

Elaine Miller owner of Ceres Gallery for property located at 23 Ceres 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***

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

(There are no Written Communications and Petitions on for consideration this evening)

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

1. Adoption of Proposed Capital Improvement Plan (CIP) FY2018 – 2023
2. Report Back from Planning Board regarding Involuntarily Merged Lots at 630 Middle Road and Sylvester Street
3. Report Back from Planning Board Re: Request for Release of Paper Streets Pursuant to RSA 231:51 and 231:52 – 26 Moffat Street (Tax Map 243, Lot 69) and Swett Avenue (Tax Map 243, Lot 23)
4. Request for First Reading a Proposed Ordinance amending Chapter 7, Article VII, Section 7.703 and 7.704 to clarify the Prohibition of Truck Traffic on Banfield Road
5. Sewer Easement for relocated Brick Box Sewer
6. Pilot Program for Late Night Food Vending

Informational items

1. Events Listing
2. Update on Islington Street Project and Burying Underground Utilities
3. Report Back Re: Welcoming Cities

B. MAYOR BLALOCK

1. Appointment to be Considered:
 - Reappointment of Dana Levenson to the Trustee of the Trust Funds
 - Appointment of Jeffery Kisiel as regular member to the Planning Board
 - Appointment of Corey Clark as an Alternate member of the Planning Board
 - Appointment of Marie Cowgill to the Citizens Advisory Committee

C. ASSISTANT MAYOR SPLAINE

1. Consideration of draft of a City of Portsmouth Welcoming and Diversity Resolution

D. COUNCILOR DWYER

1. *Update: Reviewing and weighing evidence, seeking and interpreting expert consultation, Council preparation

E. COUNCILOR LOWN

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the February 2, 2017 meeting (***Sample motion – move to accept and approve the action sheet and minutes of the February 2, 2017 Parking & Traffic Safety Committee meeting***)

F. COUNCILOR SPEAR

1. *Downtown Employee Parking for Parrott Avenue Lot (***Sample motion – move to bring back for first reading an expansion of affordable downtown worker parking through metering the Parrott Avenue Lot at 50 cents per hour for a maximum of 11 hours***)

G. COUNCILOR DENTON

1. *Section 1.902: Election Candidate Financial Disclosure (***Sample motion – move to direct the City Attorney to draft an amendment to Section 1.902 – ELECTION CANDIDATE FINANCIAL DISCLOSURE to require entities that raise and spend money on candidates to abide by the same requirements as candidates themselves***)

XII. MISCELLANEOUS/UNFINISHED BUSINESS

XIII. ADJOURNMENT

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

**Indicates Verbal Report*

INFORMATIONAL ITEMS

1. Notification that the minutes of the January 11, 2017 meeting of the Conservation Commission are now available on the City's Website
2. Notification that the minutes of the January 12, 2017 and January 26, 2017 meetings of the Planning Board 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 2, 2017

To: Honorable Mayor Jack Blalock and City Council Members

From: John P. Bohenko, City Manager 

Re: City Manager's Comments on March 6, 2017 City Council Agenda

Acceptance of Grants and Donations:

1. **Acceptance of Donation from Wentworth Senior Living Re: Sponsorship of Senior Luncheon Program.** The City of Portsmouth has received a donation in the amount of \$15,000 from Wentworth Senior Living to help support the senior luncheon program. This is the second time they have donated to the senior luncheon program. Their first donation of \$15,000 was for the years 2015/2016.

I recommend the City Council move to accept and approve the donation to help support the senior luncheon program, as presented. Action on this matter should take place under Section VII of the Agenda.

2. **Acceptance of Police Department Donation.** [Attached under Section VII of the Agenda is a memorandum](#), dated February 28, 2017, from Kathleen M. Levesque, Executive Assistant, Office of the Police Chief, regarding the acceptance of a donation. At the February 28, 2017 monthly Police Commission meeting, the Board of Police Commissioners approved and accepted the following grant and donation.
 - a. Donation of a disbursement check in the amount of \$105,687.00 from the Estate of Geraldine W. Webber.

The Police Commission submits the information to the City Council pursuant to City Policy Memorandum #94-36, for the City Council's consideration and approval at their next meeting.

I recommend the City Council move to accept and approve the donation to the Portsmouth Police Department, 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. First Reading of Proposed Ordinance Amendments.

- 1.1 **First Reading of Proposed Ordinance amending Chapter 3, Article II, Section 3.208, Regulation of Single-use Carryout Plastic Bags.** At the request of the City Council an Ordinance has been brought in at this meeting for first reading regulating the use within the City of single use carryout plastic bags. The [attached proposed ordinance amending Chapter 3, Article II Section 3.208, Regulation of Single-use Carryout Plastic Bags](#) was substantially drafted by the Surfrider Foundation-New Hampshire Chapter. It has been subject to minimal modifications of form by the City Legal Department in order that the Surfrider ordinance would be consistent with existing City ordinances. In addition, the City Legal Department has inserted a severability provision into the ordinance so that if a court should find any section of the ordinance to be unenforceable, the remaining provisions would still have full force and effect.

Action is required regarding this matter under Section VIII of the Agenda.

2. Third and Final Reading of Proposed Ordinance Amendments.

- 2.1 **Third and Final Reading of Proposed Ordinance amending Chapter 7, Article I, Section 7.115 – Sign Permit Required for Private Parking Lot.** As a result of the February 21st City Council meeting, under Section VIII of the Agenda, I am bringing back for third and final reading the [attached proposed ordinance amending Chapter 7, Article I, Section 7.115 – Sign Permit Required for Private Parking Lot](#) that addresses private companies that provide public parking on private lots requested by the City Council at its January 23, 2017 meeting.

The main purpose of the ordinance is to require proper signage which will advise the public that the management, fee structure and parking enforcement for these private lots are the sole responsibility of the owner/operator, not the City. The permit application requires that the Department of Public Works receive the following information: 24 hour emergency contact, the fees charged, and private enforcement mechanisms used by these owner/operators. The City Council has authority to regulate parking within the City limits and the signage required by this ordinance falls within that authority.

We are aware that there are other aspects of this involving land use issues that may require further ordinance changes to ensure the public's interests are properly addressed.

I recommend that the City Council move to pass third and final reading of the proposed ordinance, as presented. Action on this item should take place under Section VIII of the Agenda.

Consent Agenda:

1. **Request for License to Install Projecting Sign.** Attached under Section IX of the Agenda is a request for a projecting sign license (see attached memorandum from Rick Taintor, Planning Director):

➤ Elaine K. Miller, owner of Ceres Gallery for property located at 23 Ceres Street

I recommend the City Council move to approve the aforementioned Projecting Sign License as recommended by the Planning Director and, further, authorize the City Manager to execute this License Agreement for this request. Action on this item should take place under Section IX of the Agenda.

City Manager's Items Which Require Action:

1. **Adoption of Proposed Capital Improvement Plan (CIP) FY2018-2023.** In accordance with Section 7.7 of the City Charter, the City Council conducted a public hearing on Tuesday, February 21, 2017 regarding the proposed Capital Improvement Plan for FY2018-23. In addition to the public hearing, the City Council held a work session on February 14, 2017. 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 FY2018-2023 is available on the City's website <http://planportsmouth.com/2018-2023CapitalImprovementPlan.pdf>.

As the Acting City Manager indicated at the public hearing, 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 the proposed FY2018 budget to you on or about April 28, 2017. Given that projected date, I am suggesting the City Council adopt the proposed Capital Improvement Plan at Monday evening's meeting.

I recommend the City Council move to adopt the Capital Improvement Plan for FY 2018 – FY 2023.

2. **Report Back from Planning Board Re: Involuntarily Merged Lots at 630 Middle Road and Sylvester Street.** As you will recall at the January 23rd City Council meeting, the Council referred the aforementioned request to the Planning Board for report back to the City Council. Attached is a letter from Attorney William G. Scott on behalf of his client, The Owen Spinney Trust, requesting that the City Council restore involuntarily merged lots at 630 Middle Road and Sylvester Streets to their premerger status (see

attached) in accordance with RSA 674:39-aa (see attached). Also, attached is a memorandum from Rick Taintor, Planning Director, which further describes the lot as well as the zoning and analysis regarding this matter.

At its meeting on February 16, 2017, the Planning Board voted to recommend to the City Council that the parcel at 630 Middle Road and Sylvester Street be restored to its premerger status as three lots. The effect of this action would be to separate lots 203 and 204 as shown on the 1903 plan of Prospect Park as two individual lots, leaving the remaining five original lots as a single voluntarily merged lot.

I recommend the City Council move to accept the Planning Board's recommendation, as presented.

3. **Report Back from Planning Board Re: Request for Release of Paper Streets Pursuant to RSA 231:51 and 231:52 – 26 Moffat Street (Tax Map 243, Lot 69) and Swett Avenue (Tax Map 243, Lot 23).** As you will recall at the February 6th City Council meeting, the Council referred the aforementioned request to the Planning Board for report back to the City Council. Attached is a letter from Attorney Christopher Mulligan on behalf of his clients J. Bradley and Sarah Honeyman, requesting the release of paper streets adjacent to two parcels at 26 Moffat Street and Swett Avenue. Also, attached is a memorandum from Rick Taintor, Planning Director, which gives a description of the lot and an analysis regarding this matter.

As indicated in the memorandum, Section 11.602 of the City Ordinances provides as follows:

- A. The following matters shall be referred to the Planning Board in writing at least thirty (30) days before final action is taken:
- 1) Any acquisition or disposition of municipal real property, including fee transfers, Easements and licenses;
 - 2) No final action on a matter listed herein shall be taken until either the Planning Board has reported to the City Council thereon in writing or sixty (60) days have elapsed since the referral without such report.

As previously indicated, the City Council acted in accordance with these requirements.

At its meeting on February 16, 2017, the Planning Board voted to recommend that the City Council release all right, title and interest, if any, in the paper streets abutting the parcels shown as Assessors Map 243 Lots 69 and 23.

I recommend the City Council move to accept the Planning Board's recommendation, as presented.

4. **Request for First Reading a Proposed Ordinance amending Chapter 7, Article VII, Section 7.703 and 7.704 to clarify the Prohibition of Truck Traffic on Banfield Road.**

At the February 2, 2017 Parking and Traffic Safety Committee meeting, there was a vote to amend Chapter 7, Article VII, by deleting the current Section 7.704 Local Delivery Routes and restore the old Section 7.703 Exceptions. [Attached is a memorandum from Eric Eby, Parking and Transportation Engineer](#), regarding this matter. As recommended by Eric Eby, Parking and Transportation Engineer, I am requesting the City Council authorize me to bring an Ordinance at the March 20, 2017 City Council meeting.

I recommend the City Council move to authorize the City Manager to bring back an Ordinance for first reading at the March 20, 2017 City Council meeting to address the issued outlined in his memorandum.

5. **Sewer Easement for relocated Brick Box Sewer.** As you are aware, the new parking garage project has progressed through the land use process and the schematic design phase. The project consists of two major design elements; the roadway and associated utilities; and the garage structure itself. As anticipated, the roadway and utility design is nearly complete and the parking garage itself has just completed schematic design.

The relocation of the 48” brick box sewer around the parking garage and into the new street will be a significant part of the roadway and utility work. The original proposed design included keeping the realignment of that sewer line completely on City property. To do that requires the sewer line to include two 90 degree corners. While the sewer would work as designed, it is not an optimal solution to have such a steep angle on a sewer of this size.

Meetings with Peter Happney, an abutting property owner, led to discussions of a concept that would allow the City to construct the sewer line across his property in such a manner as to reduce the angle of the bends in the line. The sewer line would run through an easement across the Happney property.

What Mr. Happney is looking for in exchange for that easement is a release of a sliver of City owned land that runs along the front of his building. Mr. Happney currently occupies the sliver of land, which is separated from the Rock Street Park by a chain-link fence and a row of mature arborvitaes. [See attached plan.](#)

I recommend the City Council move to refer this issue to the Planning Board for a report back to the City Council on this proposed land transaction.

6. **Pilot Program for Late Night Food Vending.** In follow up to the City Council's December 6, 2016 Work Session on food trucks and mobile vending, staff will bring forward on April 6, 2017 for the consideration of the Parking and Traffic Safety Committee a proposed pilot program to allow late night food truck vending in a select area around the High Hanover garage.

As brief background, in 2010 the City Council changed the vending ordinance to prohibit vending from most municipal parking spaces. An annual bid process was set up to allow licensed food trucks to vend on a seasonal basis during day and evening hours from one of several specially selected spots if they were the highest bidders. This ordinance change limited food trucks serving the downtown.

In order to try to facilitate an increase in food trucks serving the City while balancing health, safety and other interests, the proposed pilot program would allow late night food vending, between the hours of 10 p.m. and 2 a.m., a time period when most restaurants are closing. The location of the food trucks is geared to both serve the downtown foot traffic and to ensure there is an accessible bathroom for food truck workers which is a food safety requirement (there is a public bathroom in the garage).

Staff has identified preliminarily the following areas as potential food truck vending locations:

- a. Any municipal parking space on Fleet Street between Congress Street and Hanover Street;
- b. Any municipal parking space on Hanover Street between Fleet Street and Market Street;
- c. In any of the 15-minute-only parking spaces that abut the Vaughan Mall in the Worth Parking Lot;
- d. Haven Court; and
- e. The loading zone on High Street.

[See the attached figure identifying the potential vending areas.](#)

I recommend the City Council move to refer this matter to the Parking and Traffic Safety Committee for consideration of a proposed pilot program to allow late night food truck vending in a select area around the High Hanover garage.

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 21, 2017. In addition, this can be found on the City's website.

2. **Update on Islington Street Project and Burying Underground Utilities.** As you will recall, at the February 6, 2017 City Council meeting, the Council voted to postpone for one month and bring back for a public input session the design and bidding of the Islington Street Project including burying underground utilities. City staff will need additional time to review costs and funding options for the inclusion of the underground utilities. We will give the City Council an update at the March 20, 2017 City Council meeting.

3. **Report Back Re: Welcoming Cities.** [Attached is a report back](#) from Attorney Robert Sullivan, regarding Welcoming Cities.