

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, MAY 15, 2017

TIME: 7:00PM

AGENDA

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

PROCLAMATION

- 1. Bike/Walk to Work Day in Portsmouth

PRESENTATION

- 1. Artificial Turf at the Route 33 Athletic Complex

V. ACCEPTANCE OF MINUTES – MAY 1, 2017

VI. PUBLIC COMMENT SESSION

VII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Character Based Zoning Excess Community Space
- B. First Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Signs related to Public Parking in Private Parking Lots
- C. First Reading of Proposed Ordinance amending Chapter 1, Article XVII, Section 1.1704 Public Art - Exemption
- D. First Reading of Proposed Ordinance amending Chapter 7, Article I – Parking Meters, Section 7.105 – Parking – Designated Motorcycle Parking Area
- E. First Reading of Proposed Ordinance amending Chapter 7, Article V – Bicycle Regulations
- F. First Reading of Proposed Ordinance amending Chapter 7, Article XVII – Moped Regulations

VIII. CONSENT AGENDA

(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

- A. Acceptance of Fire Department Donation from Lynn, Ray & Nancy Siconolfi - \$100.00
(Anticipated action – move to accept and approve the donation to the Fire Department, as presented)

IX. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

(There are no items under this Section of the Agenda)

X. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

1. Report Back from Planning Board Re: Potential Release of City Interest in the Portions of Two Paper Streets (Moffat Street and Woodworth Avenue) adjoining property at 85 Woodworth Avenue (Richer) and Authorize Issuance of Building Permit for Property off Swett Avenue, Moffat Street and Woodworth Avenue (Calkins)
2. Request for Qualifications Re: Thomas J. McIntyre Federal Property
3. Prescott Park Sound Management Plan
4. Referral to Planning Board Re: S & G Realty Boundary Line Agreement and Easement

City Manager's Informational Items

1. Events Listing
2. PS21 Vaughan Mall Green Initiative
3. Report Back Re: Cost Estimate for a Contracted Curbside Residential Composting Pilot Program for a Neighborhood
4. City Council FY18 Budget Work Sessions
5. Report Back Re: Charter Questions
6. City Council Rules Re: Public Comment and Public Hearings

B. ASSISTANT MAYOR SPLAINE

1. *Appointments to Boards & Commissions (***Sample motion – move that in addition to newspaper advertising of appointments to be made by the City Council of any kind on city Boards, Commissions, and Committees to be filled during the next three months, they will also be highlighted in the City of Portsmouth WEBSITE, and posted at the Library, on City Hall bulletin boards, and in each City Council Agenda, and the Agendas of those Boards, Commissions and Committees where such vacancies will occur. Additionally, at each City Council meeting the City Clerk will announce upcoming vacancies for the next three months***)

C. COUNCILOR LOWN

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the May 4, 2017 meeting (***Sample motion – move to accept and approve the action sheet and minutes of the May 4, 2017 Parking & Traffic Safety Committee meeting***)

D. COUNCILOR SPEAR

1. Thinking Fast and Slow (*Essay attached*)

XI. MISCELLANEOUS/UNFINISHED BUSINESS

XII. ADJOURNMENT

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

**Indicates Verbal Report*

INFORMATIONAL ITEMS

1. Notification that the minutes of the February 16, 2017 and March 16, 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: May 11, 2017

To: Honorable Mayor Jack Blalock and City Council Members

From: John P. Bohenko, City Manager 

Re: City Manager's Comments on May 15, 2017 City Council Agenda

Presentation:

1. **Artificial Turf at the Route 33 Athletic Complex.** Public Works Director Peter Rice with the City's consultants Weston and Sampson (Gene Bolinger, Michael Moonan and Toxicologist Marie Rudiman) and Haley and Aldrich (Toxicologist Steve Clough) will be updating the City Council as to the status of the Route 33 artificial turf field project. The presentation will focus on the infill selection and how the recommendation was developed. [Attached is the previous memorandum](#) presented to the City Council. Additional information will be presented on Monday evening.

Items Which Require Action Under Other Sections of the Agenda:

1. **First Reading of Proposed Ordinances.**
 - 1.1 **First Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Character-Based Zoning Excess Community Space.** As a result of the May 1, 2017 City Council meeting, under Section VII of the Agenda, I am bringing back for first reading the [attached proposed Ordinance](#) amending Chapter 10 – Zoning Ordinance, Character-Based Zoning Excess Community Space.

As you will recall, at the April 3, 2017 City Council meeting, the Council voted to refer the draft zoning amendment to the Planning Board for report back. This proposed Zoning Ordinance amendment would allow excess community space provided by a development in an Incentive Overlay District to be credited for use in another development in the same Incentive Overlay District. [Attached for your information is a memorandum from former Planning Director Rick Taintor](#)

explaining the background of the proposed Vaughan Street Hotel and Waterfront Park as well as the provisions of the proposed amendment.

The Planning Board held a public hearing on this draft amendment to the Zoning Ordinance at its meeting on April 20, 2017. The Board voted to recommend that the amendment be enacted with the following four changes:

1. When a developer proposed to contribute unimproved land in lieu of a confirming community space, require the application to include a complete site plan and design for the future community space.
2. In 10.5A46.23(2)(a) of the draft amendment [to be re-designated as (b)], insert the word “excess” before the words “unimproved land” to clarify the intent.
3. Reduce the maximum term of a Prospective Development Incentive Agreement from 15 years to 10 years.
4. Insert a new provision requiring the grant of a conditional use permit by the Planning Board in order for a developer to be able to use the excess community space to support a future project, regardless of whether the future project would need a conditional use permit otherwise.

The attached revised amendment incorporates the Planning Board’s recommended changes (additions underlined, deletions ~~struck through~~).

Therefore, I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the June 5, 2017 City Council meeting, as presented. Action on this matter should take place under Section VII of the Agenda

- 1.2 **First Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Signs related to Public Parking in Private Parking Lots.** As a result of the May 1, 2017 City Council meeting, under Section VII of the Agenda, I am bringing back for first reading the attached proposed Ordinance amending Chapter 10 – Zoning ordinance, Signs related to Public Parking in Private Parking Lots.

At its March 6, 2017 meeting the City Council passed third reading on an ordinance relating to signs for public parking in a private parking lot. This ordinance was enacted as an amendment to the City Ordinances, Chapter 7, Article I – Parking Meters, and requires that any sign located at the entrance to a private parking lot receive a permit from the Department of Public Works.

Attached is a memorandum from former Planning Director Rick Taintor which outlines the reasons for an amendment to the Zoning Ordinance to exempt signs and other elements related to public parking in private parking lots from specific

zoning standards when authorized under a permit from the Department of Public Works.

The Planning Department drafted the [attached amendment to the Zoning Ordinance](#) to implement these exemptions, and the City Council voted at its March 20th meeting to refer this proposed amendment to the Planning Board for report back.

At its meeting on April 20, 2017, the Planning Board voted unanimously to recommend that the Zoning Ordinance be amended as proposed.

Therefore, I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the June 5, 2017 City Council meeting, as presented. Action on this matter should take place under Section VII of the Agenda

1.3 **First Reading of Proposed Ordinance amending Chapter 1, Article XVII, Section 1.1704 Public Art - Exemption.** As requested by Councilor Nancy Pearson, under Section VII of the Agenda, [attached is a proposed Ordinance](#) amending Chapter 1, Article XVII, Section 1.1704 Public Art – Exemption.

City Attorney Robert Sullivan meet with Councilor Nancy Pearson on April 11, 2017 regarding the inclusion of a public art component to school construction projects, reference ordinances of the City of Portsmouth, Chapter 1, Article XVII.

In particular, 1.1702 **PUBLIC ART COMMITMENT** requires that, “One (1%) percent of the bid price or negotiated contract price for the construction of all new municipal buildings or for the renovation of existing municipal buildings, in which the bid price or negotiated price shall be in excess of Two Million (\$2,000,000.00) Dollars up to Fifteen Million (\$15,000,000.00) Dollars (expressed in terms of actual construction costs exclusive of design and engineering fees), shall be contributed to the Public Art Trust for the purpose of funding public art.”

The ordinance contains further provisions which determine how public art will be selected and the public arts funds expended on that selection.

There is also a provision in the ordinance which allows the City Council to exempt a municipal building under appropriate circumstances.

Insofar as school buildings are owned by the municipality and construction or renovation of them is funded by the City Council, it would appear that this ordinance would apply to school buildings, such as the Little Harbour School.

I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the June 5, 2017 City Council meeting. Action on this matter should take place under Section VII of the Agenda

- 1.4 **First Reading of Proposed Ordinance amending Chapter 7, Article I Parking Meters, Section 7.105: Parking - Designated Motorcycle Parking Area.** As you are aware, the City Council approved the Parking and Traffic Safety Committee meeting minutes of April 6, 2017. The Committee approved the proposed Ordinance amending Chapter 7, Article I Parking Meters, Section 7.105: Parking C. Designated Motorcycle Parking Area (see [Ordinance under Section VII of the Agenda](#)). I am requesting the City Council authorize the City Manager to bring back for public hearing and second reading the proposed Ordinance at the June 5, 2017 City Council meeting.

Therefore, I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the June 5, 2017 City Council meeting. Action on this matter should take place under Section VII of the Agenda

- 1.5 **First Reading of Proposed Ordinance amending Chapter 7, Article V Bicycle Regulations.** As you are aware, the City Council approved the Parking and Traffic Safety Committee meeting minutes of April 6, 2017. The Committee approved the proposed Ordinance amending Chapter 7, Article V Bicycle Regulations (see [Ordinance under Section VII of the Agenda](#)). I am requesting the City Council authorize the City Manager to bring back for public hearing and second reading the proposed Ordinance at the June 5, 2017 City Council meeting.

Therefore, I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the June 5, 2017 City Council meeting. Action on this matter should take place under Section VII of the Agenda

- 1.6 **First Reading of Proposed Ordinance amending Chapter 7, Article XVII Moped Regulations.** As you are aware, the City Council approved the Parking and Traffic Safety Committee meeting minutes of April 6, 2017. The Committee approved the proposed Ordinance amending Chapter 7, Article XVII Moped Regulations (see [Ordinance under Section VII of the Agenda](#)). I am requesting the City Council authorize the City Manager to bring back for public hearing and second reading the proposed Ordinance at the June 5, 2017 City Council meeting.

Therefore, I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the June 5, 2017 City Council meeting. Action on this matter should take place under Section VII of the Agenda

Consent Agenda:

1. **Acceptance of Fire Department Donation.** The Fire Department received a donation in the amount of \$100.00 from Lynn, Ray and Nancy Siconolfi expressing their appreciation for the life safety services provided by the firefighters to her daughter and other tenants during the State Street fire. [See attached letter.](#)

I recommend the City Council move to accept and approve the donation to the Fire Department, as presented.

City Manager's Items Which Require Action:

1. **Report Back from Planning Board Re: Potential Release of City Interest in the Portions of Two Paper Streets (Moffat Street and Woodworth Avenue) adjoining property at 85 Woodworth Avenue (Richer) and Authorize Issuance of Building Permit for Property off Swett Avenue, Moffat Street and Woodworth Avenue (Calkins).** In the [attached letter](#) to the City Council received April 26, 2017, Attorney Durbin, representing Mr. David Calkins, requested authorization for the issuance of building permits for construction of single family homes on lots located off of Swett Avenue, Moffat Street, and Woodworth Avenue. Pursuant to RSA 674:41(d), the City Council must first refer this request to the Planning Board for review and comment. In the same letter Attorney Durbin included a request for the City Council to postpone voting on Raymond and Maryrose [Richer's attached request](#) for release of interest in portions of two paper streets that abut Mr. Calkins' lots and to consider Mr. Calkins' building permit request and the Richer's request at the same time. On May 1st, the City Council voted to postpone the Richer's request in order to consider both of these items at the same time. The area proposed by Mr. Calkins for a two-lot subdivision as well as the portion of the paper streets requested by the Richer's are shown on the [attached map](#).

Also, attached is a [memorandum from Planning Director Juliet Walker](#) explaining the background regarding this matter. Once the Planning Board reports back on Attorney Durbin's letter, we will bring back both items for City Council consideration at a later date.

I recommend the City Council move to refer the request from Attorney Durbin on behalf of David Calkins to authorize the issuance of building permits on a private drive off of Swett Ave, Moffat St, and Woodworth Ave pursuant to RSA 674:41(d) to the Planning Board for review and comment.

2. **Request for Qualifications Re: Thomas J. McIntyre Federal Property.** Attached is a draft Request for Qualifications (RFQ) to solicit developer interest in forming a public-private partnership with the City to undertake the reuse and redevelopment of the Thomas J. McIntyre property, in conjunction with the Historic Monument program.

At a meeting with representatives of the General Services Administration (GSA) late last month, we discussed the process and timeline detailed in our letter of interest to the GSA. This process allows for the City to seek interest from qualified developers, and select preferred entities to then develop more specific proposals for the City's consideration by the end of the summer. The RFQ calls for submittals to be due in early June, with subsequent City Council evaluation.

I recommend the City Council move to approve the release of the Request for Qualifications (RFQ) regarding the McIntyre Federal Property.

3. **Prescott Park Sound Management Plan.** As you are aware, the City staff has been preparing for the 2017 season in Prescott Park. This has included entering into new agreements with The Gundalow Company and the NH Arts Association as well as clarifying and documenting operational parameters with the Prescott Park Arts Festival.

In particular, the City staff has been working to address concerns related to sound levels associated with Park activities and performances in the Park, which have been raised by many members of the public, including Park neighbors as well as patrons. This issue was discussed during the Prescott Park Master Planning process; addressed in the Master Plan and the Prescott Park Arts Festival has agreed to work with the City to implement a "sound management plan" for the coming season.

City staff believes reliable and consistent data is needed in order to monitor sound levels and make good policy decisions going forward. On Monday night, Assistant City Manager David Moore will describe the staff's proposal and request for \$5,000 in funding from contingency in order to implement the plan.

I recommend the City Council move to authorize the City Manager to expend \$5,000 in contingency funds in order to move forward with the Prescott Park Sound Management Plan.

4. **Referral to Planning Board Re: S & G Realty Boundary Line Agreement and Easement.** S & G Realty owns property located on Chevrolet Avenue and seeks to construct a three unit residential structure. S & G Realty has already received necessary variances from the Zoning Board of Adjustment, and the project is presently in the site review process.

S & G Realty has proposed resolving a discrepancy in the boundary line between S & G Realty's property and property owned by the City, property which constitutes a portion of Chevrolet Avenue. Two surveys have been done in the area with differing results.

Representatives of the Public Works Department and the Legal Department have met with counsel for S & G Realty, Attorney Bernard Pelech, to discuss a Boundary Line Agreement and Easement to resolve the title discrepancies. The proposed Boundary Line Agreement and Easement would benefit the City by allowing the City to gain additional rights by both fee and easement to better maintain the City's sewer and drainage infrastructure in Chevrolet Avenue which runs along the edge of S & G Realty's boundary.

[Attached is the correspondence from Attorney Pelech](#) along with two boundary exhibits, one showing existing conditions, and the other showing the proposed site layout. The proposed new boundary and easement area are noted in green. The Planning Board will be reviewing the site plan at its upcoming May meeting, and it would be appropriate at that time for the Planning Board to recommend, or not, this proposed Boundary Line Agreement and Easement.

I recommend the City Council move to refer the request of S & G Realty for Boundary Line Agreement and Easement to the Planning Board for its recommendation.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on May 1, 2017. In addition, this can be found on the City's website.
2. **PS21 Vaughan Mall Green Initiative.** [Attached for your information is a News Release from PS21 – Portsmouth Smart Growth for 21st Century](#), entitled “Creating Vaughan Mall Green” – an event on May 20, 2017 will bring volunteers and city together to create an inviting, ecological community space in Vaughan Mall.
3. **Report Back Re: Cost Estimate for a Contracted Curbside Residential Composting Pilot Program for a Neighborhood.** For your information, [attached is a memorandum from Jacob Levenson, Solid Waste Sustainability Coordinator](#), regarding residential food waste curbside collection pilot program costs.
4. **City Council FY18 Budget Work Sessions.** For your information, [attached are Agendas](#) for the following City Council FY18 Budget Work Sessions:
 - a) Wednesday, May 17th – Water/Sewer Budget at 6:30 p.m.
 - b) Monday, May 22nd – FY18 Budget Review at 6:30 p.m.

Both meetings will be held in the Eileen Dondero Foley Council Chambers.

5. **Report Back Re: Charter Questions.** As you will recall at the May 1, 2017 City Council meeting, Assistant Mayor Splaine requested a report back from City Attorney Robert Sullivan regarding the following four questions related to the Charter Amendment process:

- 1) What are deadlines of placing City Charter amendments for citizens to vote?
- 2) What are the restrictions or limitations concerning the types of issues that may be voted on, considering that efforts to put some Charter amendments on the ballot two years ago were unsuccessful?
- 3) Specifically for City Council – initiated Charter amendments, what is the required schedule and process?
- 4) Specifically for citizen – initiated Charter amendments, what are the petition requirements and deadlines?

For your information, [attached is a memorandum from City Attorney Robert Sullivan](#) opining to the four questions.

6. **City Council Rules Re: Public Comment and Public Hearings.** I have [attached for your information a memorandum from City Clerk Kelli Barnaby](#) regarding City Council Rules regarding Public Comment Session and Public Hearings that was voted on by the City Council at the May 1, 2017 City Council meeting.