

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH

DATE: MONDAY, SEPTEMBER 18, 2017

TIME: 6:00 PM

AGENDA

- **6:00PM – PUBLIC DIALOGUE**

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

PRESENTATIONS

- 1. Revaluation Impact Analysis & Estimated Tax Rate
- 2. Impact Fees

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

- VI. **PUBLIC DIALOGUE SUMMARY**

- VII. **PUBLIC HEARING AND VOTES ON ORDINANCES AND/OR RESOLUTIONS**

- A. PUBLIC HEARING/ADOPTION OF RESOLUTION AMENDING THE ELDERLY EXEMPTION LIMIT FROM PROPERTY TAX BASED ON ASSESSED VALUE FOR QUALIFYING TAXPAYERS:

Age 65-74	\$125,000.00, Increase of \$5,000.00
Age 75-79	\$175,000.00, Increase of \$15,000.00
Age 80+	\$225,000.00, Increase of \$25,000.00

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

(Sample motion – move to adopt the Resolution amending the Elderly Exemption Limit from Property Tax Based on Assessed Value for Qualifying Taxpayers)

- VIII. **APPROVAL OF GRANTS/DONATIONS**

- A. *Acceptance of Donation to the Coalition Legal Fund
 - Town of Rye - \$5,000.00

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

IX. CONSENT AGENDA

(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

- A. Letter from Kaity Stanton, Big Brothers Big Sisters of New Hampshire, requesting permission to close Pleasant Street on Saturday, June 16, 2018 from 3:00 p.m. – 6:00 p.m. for the Annual Stiletto Sprint (Rain Date Sunday, June 17, 2018)
- B. Request for License to Install Projecting Sign from Joe Kelly owner of Joe's Pizza for property located at 124 Congress 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**

- C. Request for License to Install Projecting Sign from John Murdock owner of Marketplace Home Mortgage for property located at 77 Hanover 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 Diane Crespo owner of Diane Crespo Fine Art Gallery for property located at 92 Pleasant 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. Letter from Laurie Mantegari, Scarecrows of the Port Committee, requesting permission to place scarecrows in designated locations throughout the Downtown Area (***Sample motion – move to refer to the Acting City Manager with power***)

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

(See E-mail Correspondence)

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. ACTING CITY MANAGER

Acting City Manager's Items Which Require Action:

1. Request for Ratification of an Intergovernmental Agreement between the New Hampshire Division of Homeland Security and Emergency Management and the Community of Portsmouth, New Hampshire
2. Request for Authorization to Accept Utility Easement Re: 4 Sylvester Street
3. City Appointments to Cancer Cluster and Drinking Water Commissions
4. 299 Vaughan Street
5. Report Back Re: Toxic-Free Weed Control Resolution

Acting City Manager's Informational Items:

1. Events Listing
2. Memorial Bridge Lighting Policy
3. Report Back Re: Sagamore Bridge Jumping
4. Report Back Re: 2017 Annual Department Inspection's Report
5. Letter from NH DOT Re: Acceptance into the Type II Highways Noise Abatement Program

B. MAYOR BLALOCK

1. Appointment to be Considered:
 - Reappointment of Ronald Zolla to the Economic Development Commission
2. *Appointments to be Voted:
 - Appointment of Richard Katz to the Library Board of Trustees
 - Reappointment of Stephanie Hausman to the Library Board of Trustees
 - Reappointment of Donald Margeson to the Library Board of Trustees
 - Reappointment of Sarah Lachance to the Economic Development Commission
3. Resignation – John Mayer from the Historic District Commission

C. ASSISTANT MAYOR SPLAINE

1. Revisiting North Cemetery Wall Placement

D. COUNCILOR LOWN

1. Parking and Traffic Safety Committee Meeting of September 7, 2017 (***Sample motion – move to approve and accept the minutes of the September 7, 2017 Parking and Traffic Safety Committee meeting***)

E. COUNCILOR SPEAR

1. Fire Department Study Committee

F. COUNCILOR DENTON

1. Offshore Wind Development Resolution

XII. MISCELLANEOUS/UNFINISHED BUSINESS

XIII. ADJOURNMENT

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

**Indicates Verbal Report*

INFORMATIONAL ITEMS

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

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: September 14, 2017
To: Honorable Mayor Jack Blalock and City Council Members
From: Nancy Colbert Puff, Acting City Manager *NCp*
Re: Acting City Manager's Comments on September 18, 2017 City Council Agenda

Presentations:

1. **Revaluation Impact Analysis and Estimated Tax Rate.** On Monday evening, Finance Director Judie Belanger will give a presentation to the City Council regarding the revaluation, its impact, and the estimated tax rate.
2. **Impact Fees.** Planning Director Juliet Walker will give a presentation to the City Council regarding the overview of New Hampshire rules and processes for municipal assessment of impact fees as a condition of subdivision or site plan approval for specific development projects.

Acceptance of Grants and Donations:

1. **Acceptance of Donation to the Coalition Legal Fund.** The City of Portsmouth has received a donation from the Town of Rye in the amount of \$5,000.00 to the Coalition Legal Fund, which will be utilized to continue our fight to eliminate the statewide property tax.

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 VIII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. Public Hearing of Proposed Resolution.

- 1.1 **Public Hearing of Proposed Resolution Re: Elderly Exemptions.** As a result of the September 5th City Council meeting, under Section VII of the Agenda, I am bringing back for a public hearing the [attached Resolution](#) for an adjustment in elderly exemptions.

The results of the 2017 Statistical Revaluation indicate based on the estimated tax rate of \$15.53 a median increase of \$544 in taxes for the 107 taxpayers who are currently receiving the Elderly Exemption at the existing exemption levels of:

- Age 65 to 74 \$120,000
- Age 75-79 \$160,000
- Age 80 + \$200,000

On February 16, 2016, the City Council adopted resolution #1-2016 for the fiscal year 2017 / tax year 2016 which decreased these exemption amounts as follows:

- Age 65 to 74 From \$125,000 to \$120,000
- Age 75-79 From \$175,000 to \$160,000
- Age 80 + From \$225,000 to \$200,000

In order to reduce this impact to those who are currently qualified to receive the Elderly Exemption, I propose that the City Council consider adopting a Resolution to adjust the exemption levels back to the levels prior to tax year 2016.

Rosann Lentz, the City Assessor, will present the impact to these taxpayers using both the current and the recommended exemption levels.

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

Consent Agenda:

1. **Request for License to Install Projecting Signs.** [Attached under Section IX of the Agenda](#) are requests for a projecting sign licenses ([see attached memorandums from Juliet Walker, Planning Director](#)):
- Joe Kelly, owner of Joe's Pizza, for property located at 124 Congress Street
 - John Murdock, owner of Marketplace Home Mortgage for property located at 77 Hanover Street
 - Diane Crespo, owner of Diane Crespo Fine Art Gallery for property located at 92 Pleasant Street

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

Acting City Manager's Items Which Require Action:

1. **Request for Ratification of an Intergovernmental Agreement between the New Hampshire Division of Homeland Security and Emergency Management and the Community of Portsmouth, New Hampshire.** The [attached Intergovernmental Agreement between the New Hampshire Division of Homeland Security and Emergency Management \(HSEM\) and the Community of Portsmouth, New Hampshire](#) is required if the City of Portsmouth wishes to make resources available for disaster requests outside the state through the Emergency Management Assistance Compact (EMAC). This is with the State of New Hampshire and provides a means to be reimbursed through Federal Emergency Management Agency (FEMA) or another state for costs associated with our resource response. This was approved and drafted by the New Hampshire Attorney General for response preparation. Currently, the only resource that would respond to a request is Chief Steve Achilles as part of the region's Incident Management Team.

The Agreement has been signed by the Acting City Manager in advance of City Council consideration and action. With the pending hurricanes and in preparation for any subsequent opportunity, Fire Chief Achilles' believes it is important to have this Agreement in place sooner than later. Again, personnel or other resources cannot deploy through FEMA or through EMAC without this Agreement.

In addition, the City Council will note that there is an area required for a State Mission #. The Fire Chief has been advised by the Director of Homeland Security that it is not required at the time of the signature and would be inserted if and when one was assigned.

This is very similar to the State and Federal Homeland Security Grant process where the City fronts the money and covers expenses, then submits receipts for reimbursement. Any amounts not covered could come from a department's operating budget or from the Emergency Management Office budget.

I am requesting that the City Council move to ratify the Intergovernmental Agreement, as submitted.

2. **Request for Authorization to Accept Utility Easement Re: 4 Sylvester Street.** The owners of 4 Sylvester Street, Gary and Aerial Sillanpaa, have provided a utility easement to the City to encompass existing drain and sewer lines that cross their property. This easement is provided as a stipulation the Planning Board's approval to construct a garage and accessory dwelling unit.

This new utility easement will replace an existing easement which was inadequate and needed updating. Authority is sought both to accept the new easement and release the existing easement. [The new easement area is highlighted in purple on the attached.](#)

I recommend the City Council move to authorize the Acting City Manager to accept a required utility easement Gary and Aerial Sillanpaa of 4 Sylvester Street and to release the existing easement on the property.

3. **City Appointments to Cancer Cluster and Drinking Water Commissions.** There are two new laws that have created Commissions that require the City Council to appoint representatives from the City as members.

[HB 484, now Chapter 197 attached](#), is a Commission to Investigate the Seacoast Cancer Cluster. The law requires the City Council to appoint a representative from the City of Portsmouth to serve on the Commission. The current Governor's Task Force on the Seacoast Cancer Cluster will be dissolving and will render a report which will be reviewed by this new Commission. Health Officer Kim McNamara has served on the Governor's Task Force on the Seacoast Cancer Cluster since its inception and would be willing to serve as a member of the Commission as the representative from the City of Portsmouth.

[HB 431, now Chapter 138, also attached](#), is a Commission to Study Long-Term Goals and Requirements for Drinking Water in the Seacoast Area. Brian Goetz, Deputy Public Works Director, has served on the Groundwater Commission for the State of New Hampshire and would be willing to serve as a member of the Commission as the representative from the City of Portsmouth.

In the event the Council moves forward with these appointments, I recommend the following motions be adopted:

- 1) *Move to appoint Health Officer Kim McNamara to serve as a member of the Commission to Investigate the Seacoast Cancer Cluster on behalf of the City of Portsmouth.*
 - 2) *Move to appoint Deputy Public Works Director Brian Goetz to serve as a member of the Commission to Study Long-Term Goals and Requirements for Drinking Water in the Seacoast Area on behalf of the City of Portsmouth.*
4. **299 Vaughan Street.** On June 15, 2017, the Planning Board granted site plan review, wetlands conditional use, and subdivision approvals for Vaughan Street Hotel LLC (formerly 299 Vaughan Street LLC) to construct a five-story, 143-room hotel with additional ground-floor retail uses on properties currently occupied by a municipal parking lot and an auto parts business. The Planning Board action requires City Council approval, and recording as necessary, of a series of agreements and deeds as a precondition of the commencement of the project. Each of these documents is [attached hereto](#) in final draft form and briefly described below.

1. **Prospective Development Incentive Agreement:** This agreement is intended to implement that provision of the City’s zoning ordinance (Incentive Overlay District Excess Community Space, Section 10.5A46.23) under which the Planning Board has granted a conditional use permit to the Developer allowing for the excess community space provided by another developer to be credited towards a future undetermined project. In this case the Developer provided 47,723 of community space where site plan approval credits 14,884 square feet to this project. This creates a credit of 28,897 square feet of “excess community space” to future development within the North End incentive overlay district. Credits must be used within fifteen (15) years and are assignable to other developers.

2. **Community Space and Easement Agreement (Quitclaim Deed):** The main purpose of this document is to convey from the Developer to the City a parcel of land consisting of approximately 43,790 square feet shown on Exhibit B attached to the proposed Quitclaim Deed. A brief description of this parcel is that it would be located behind the hotel on the waterfront of the North Mill Pond and would become part of the future North Mill Pond Greenway park which is a project in the City’s Capital Improvement Program.

The deed would also accomplish the following:

- a. Retain from the pre-existing lot a parcel consisting of 3,942 square feet for the Developer (identified as the Retained Lot or the Retained Land).

- b. Provide the City with a ten (10’) foot wide access easement over that Retained Land for pedestrians and bicycles to reach the Community Space.

- c. Reserve for the benefit of the Developer the following easements over the Community Space.
 - i. A Landscaping Maintenance Access Easement which would allow the developer to cross the City land being conveyed to transport landscaping materials to the Retained Land. Such access is to be in locations and at times approved in advance by the City.

 - ii. A Drainage Easement so that the Developer might drain surface water flow from its property across the Community Space.

 - iii. A Rain Garden Drainage Easement which would provide the developer with a permanent easement to drain surface water from its remaining land and any other adjacent property it might acquire across the Community Space.

 - iv. A Maintenance Easement for the perpetual right of ingress and egress of motor vehicles and equipment for constructing and

maintaining drain pipes, detention areas and the like over the Vaughan Street Access Easement (to be described later). Such access is to be in locations and at times approved in advance by the City.

- d. Convey to the City an easement allowing public access and egress between the property being conveyed to the City and Vaughan Street. Within this easement area the Developer reserves for itself a construction and Maintenance Easement as well as “air rights” beginning thirteen (13’) feet above the finished surface of the easement area for the future construction of a building.
3. **Green Street Access Easement:** This document is intended to grant from the Developer to the City an Access Easement over land of the Developer in order to provide a connection from Green Street to the North Mill Pond Greenway Park (Community Space) for future improvements that would allow for public access and egress for pedestrian and bicycles. In this document the Developer reserves for itself easements to use the access area to construct and maintain its own buildings as well as the right to install right to the “air rights” beginning thirteen (13’) feet above the finished surface of the easement area for the future construction of a building.
4. **Green Street Widening Easement:** This deed is intended to convey to the City land necessary to widen Green Street adjacent to the project as shown on Exhibit A attached to the deed.
5. **Canopy Easement Agreement:** This document is intended to convey from the City to the Developer an easement to allow construction of a canopy over City property. It is in a form routinely used by the City.
6. **Sidewalk Easement Deed:** This deed conveys an easement from the Developer to the City to allow the construction of sidewalks on public property along Green Street and Vaughan Street as shown on Exhibit A attached to the deed. This, too, is in a form previously utilized by the City.
7. **Valet License Agreement:** This is an unusual agreement, utilized for the first time in the City of Portsmouth. It creates a license for as long as there is a hotel located at 299 Vaughan Street for that hotel to have exclusive use of a portion of Vaughan Street on a twenty-four (24) hours a day, seven (7) day a week basis for the purpose of valet parking of automobiles.

In addition to the foregoing documents it will be the obligation of counsel for the Developers, Stebbins, Lazos & Van Der Beken, P.A., to take the following actions:

- a. Provide the City with a Certification that the Grantor of each deed or easement has the lawful authority to execute such document. This requirement is made necessary

by the fact that the Developer is currently reorganizing its business arrangements so that the property owner of the various lots described above may be different from the entity which owned the properties at the time of Planning Board approval.

- b. Provide certification that the City's property acquisitions, including the easements, will not be subject to any title encumbrances such as mortgages or liens. This will be accomplished by either assuring that the City is first in title or by providing appropriate subordination agreements so that the City is not subject, for example, to losing its land or easements through foreclosure or lien execution.

Each of the documents described above and attached hereto has been the subject of extensive negotiation between the Developer and the City (represented by Planning and Legal). Accordingly, the documents are in a form recommended for approval by the City Council. However, since it is likely that documents of such length and complexity will require minor adjustment before finalizing the transactions, an appropriate motion would be:

MOVED, that the Acting City Manager be authorized to execute and accept the documents presented to the Council on this Agenda related to 299 Vaughan Street in substantial conformance to the form and substance of the documents as provided.

5. **Report Back Re: Toxic-Free Weed Control Resolution.** As a report back to City Council, Staff has reviewed the Toxic-Free Weed Control Resolution proposed by Assistant City Mayor Splaine and have developed the [attached revised resolution](#) which seeks to clarify terminology. The Director of Public Works will be present to answer questions related to this proposed resolution.

Action required regarding this matter.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on September 5, 2017. In addition, this can be found on the City's website.
2. **Memorial Bridge Lighting Policy.** For your information, [attached is a Memorial Bridge Lighting Policy effective September 18, 2017.](#) This policy promotes events that celebrate the City, its civic institutions, City-recognized holidays, public events and festivals. The purpose of a lighting policy for the Memorial Bridge is to provide a process that allows charities and non-profit organizations to request the bridge be illuminated on a specific day and in a specific color.

3. **Report Back Re: Sagamore Bridge Jumping.** At the September 5th City Council meeting, Assistant Mayor Splaine requested a report back regarding the Sagamore Bridge jump restrictions. The City owns and maintains the Sagamore Bridge. Throughout its history, the City has posted “no jumping from the bridge signs” at this location to warn those considering such action of the inherent danger of doing so, as the Sagamore Creek is an active waterway as well as a tidal river. The signs have been subject to occasional vandalism (sometimes found on the banks below). A recent increase in activity prompted the City to repost the bridge this summer. While we understand that jumping has become a rite of passage over generations, the City would be ill-advised to encourage an activity that comes with a high risk of injury. Finally, the City’s liability insurer is strongly supportive of the City’s continued use of warning signs.
4. **Report Back Re: 2017 Annual Department Inspection’s Report.** At the September 5th City Council meeting, Councilor Rebecca Perkins requested more information regarding the 2017 Annual Department Inspection’s Report. Councilor Perkins asked why the number and value of permits had increased but the fees had not. This is in large part due to City-projects where the value, permits, and inspection numbers are counted but the fee is waived (e.g. the Wastewater Treatment Plant Upgrade and Dondero School).
5. **Letter from New Hampshire Department of Transportation Re: Acceptance into the Department’s Type II Highway Noise Abatement Program.** For your information, [attached is a letter](#) from Victoria Sheehan, Commissioner of the New Hampshire Department of Transportation (DOT) regarding the City’s request for acceptance into the Department’s Type II Highway Noise Abatement program. The City is following up with DOT to provide them with additional information requested.