

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, OCTOBER 2, 2017 TIME: 6:00 PM

AGENDA

- 6:00PM – WORK SESSION REGARDING COMMERCIAL REVALUATION – CONFERENCE ROOM A

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

- V. ACCEPTANCE OF MINUTES – SEPTEMBER 5, 2017 & SEPTEMBER 22, 2017

- VI. PUBLIC COMMENT SESSION

- VII. VOTES ON ORDINANCES AND/OR RESOLUTIONS
 - A. Adoption of Proposed Resolution Re: Elderly Exemptions

- VIII. APPROVAL OF GRANTS/DONATIONS
 - A. Acceptance of Emergency Management Performance Grant (EMPG) ***(Sample motion – move to accept the terms of the Emergency Management Performance Grant (EMPG), as presented in the amount of \$6,000.00 to develop a Continuity of Operations Plan (COOP). Furthermore, the Council acknowledges that the total cost of this project will be \$12,000.00, in which the City will be responsible for a 50% match (\$6,000.00). In addition, the Council authorizes the Acting City Manager to sign all documents related to the grant)***

 - B. Acceptance of Police Department Grant
 - Grant to the Portsmouth Police Department by the NH Department of Safety, Division of State Police for a Law Enforcement Opioid Abuse Reduction Initiative - \$32,000.00 ***(Sample motion – move to accept and approve the grant to the Portsmouth Police Department, as presented)***
 - Internet Crimes Against Children Task Force State Funding ***(No action required as the City Council took action in March 2017 on this matter)***

- IX. CONSENT AGENDA

(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

 - A. Letter from Stephanie Puls, Susan G. Komen New England, requesting permission to hold the Susan G. Komen New England Race for the Cure on June 23, 2018 at 8:00 a.m. ***(Anticipated action – move to refer to the Acting City Manager with power)***

- B. Letter from Ben Anderson, Prescott Park Arts Festival, requesting permission to hold the 5th Annual Memorial Bridge 5k on Sunday, October 8, 2017 (***Anticipated action – move to refer to the Acting City Manager with power***)
- C. Request for License to Install Projecting Sign from Amy LaBelle owner of LaBelle Winery for property located at 104 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***

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. (See E-mail Correspondence)
- B. Letter from Francis Chase, Community Home Solutions, requesting an exemption for property taxes under Chapter 72:23-k for property located at 413 Lafayette Road (***Sample motion – move to refer to the City Assessor for report back***)
- C. Letter from Pat Healy, Creek Athletic Club, requesting the an 8 year extension of their Lease Agreement (***Sample motion – move to refer to the Acting City Manager for report back***)

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. ACTING CITY MANAGER

Acting City Manager’s Items Which Require Action:

1. Adoption of the Hazard Mitigation Plan Update 2017
2. Voluntary Merger of Contiguous Lots Re: Foundry Place and Rock Street Parcels
3. Request for First Reading Re: Zoning Ordinance Amendments – Off-Street Parking
4. Request for First Reading Re: Gateway Mixed Use District Zoning Amendments

5. Request for First Reading to Amend Chapter 12 by Adopting the 2009 International Building Code and 2009 International Residential Code to Replace the Existing 2006 Versions and to Amend Chapter 15 by Adopting the 2009 International Plumbing and Mechanical Codes to Replace the Existing 2006 Version. This also includes local amendments to the 2014 National Electrical Code
6. Request for First 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
7. Request for License Agreement Re: 401 State Street – The Rockingham Building
8. Polling Hours – November 7, 2017 Municipal Election

Acting City Manager's Informational Items:

1. Events Listing
2. Zagster Bike Share September Report
3. Coakley Landfill Group Update

B. MAYOR BLALOCK

1. Appointment to be Considered:
 - Appointment of Amrishi Chicooree to the Cable Television and Communication Commission
 - Appointment of Thaddeus Jankowski as an Alternate to the Conservation Commission
 - Appointment of Martin Ryan to the Historic District Commission as a Regular Member
 - Reappointment of Lisa DeStefano to the Building Code Board of Appeals
 - Reappointment of Jeffrey Landry to the Building Code Board of Appeals
 - Reappointment of Dennis Moulton to the Building Code Board of Appeals
 - Reappointment of Gary Nadeau to the Building Code Board of Appeals
 - Reappointment of Shaula Balomenos Levenson to the Library Board of Trustees
2. *Appointments to be Voted:
 - Reappointment of Ronald Zolla to the Economic Development Commission

C. COUNCILOR DWYER

1. *Commercial Revaluation Audit

D. COUNCILOR SPEAR

1. *Statement in support of NFL Players, free expression, and Black Lives Matter:
The President recently commented on the NFL players protesting systemic racism in the criminal justice system by saying “Get that son of a bitch off the field right now, out, he’s fired.”
The Portsmouth City Council resolves:
 - From Peter Norman to Kathrine Switzer to Willie O’Ree, courageous athletes have used their public platform to peacefully demonstrate and promote needed changed, and NFL players are continuing that tradition.
 - The President’s outrageous remarks chillingly discourage civil action.
 - Systemic and institutionalized racism are the defining civil rights and social justice issues of our time. The council and people of Portsmouth encourage dialogue and actions that acknowledge and mitigate the violence and threats to the lives and well-being of black people and all people of color.

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

1. Notification that the minutes of the July 24, 2017, August 2, 2017 and August 9, 2017 meeting of the Historic District Commission are now available on the City’s website
2. Notification that the minutes of the August 17, 2017 and August 24, 2017 meeting of the Planning Board are now available on the City’s website
3. Notification that the minutes of the August 9, 2017 meeting of the Trees & Greenery Committee 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: September 28, 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 October 2, 2017 City Council Agenda

Work Session:

6:00 p.m.

1. **Commercial Revaluation.** On Monday evening at 6:00 p.m., the Mayor has scheduled a Work Session focused on the commercial revaluation. See attached excerpts from the Uniform Standards of Professional Appraisal Practice manual which will be referenced during the Work Session.

Acceptance of Grants and Donations:

1. **Acceptance of Emergency Management Performance Grant (EMPG).** The Fire Department has applied for an Emergency Management Performance Grant in the amount of \$6,000 to develop a Continuity of Operations Plan (COOP). The total cost of the project will be \$12,000 in which the City will be responsible for a 50% match (\$6,000). Attached is a letter from the State of New Hampshire Department of Safety, Homeland Security and Emergency Management regarding this matter.

In order to accept the grant, the City Council would use the following language:

Move to accept the terms of the Emergency Management Performance Grant (EMPG), as presented in the amount of \$6,000.00 to develop a Continuity of Operations Plan (COOP). Furthermore, the Council acknowledges that the total cost of this project will be \$12,000.00,

in which the City will be responsible for a 50% match (\$6,000.00). In addition, the Council authorizes the Acting City Manager to sign all documents related to the grant. Action on this matter will take place under Section VIII of the Agenda.

2. **Acceptance of Police Department Grant.** Attached under Section VIII of the Agenda is a memorandum, dated September 27, 2017, from Kathleen M. Levesque, Executive Assistant, Office of the Police Chief, regarding the acceptance of an Opioid Grant and Notice of State Funding for Internet Crimes Against Children (ICAC). At the September 26, 2017 monthly Police Commission meeting, the Board of Police Commissioners approved and accepted the following grant:

- a. A grant in the amount of \$32,000 has been awarded to the Portsmouth Police Department by the NH Dept. of Safety, Division of State Police for a law Enforcement Opioid Abuse Reduction Initiative.

In addition, the Commission would like to advise the Council of the [attached notice](#) from the New Hampshire Attorney General's Office. Attorney General MacDonald is advising that the ICAC State Funding for "Operation Forensic Shield", has been allocated by vote of the legislature. The Commission and the Council **pre-approved** the grant in March of 2017 in advance of the vote of the legislature, as was required by the state, for this first-time allocation of state funds for "ICAC Forensic Shield" (Internet Crimes Against Children).

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 grant 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. **Adoption of Proposed Resolution.**
 - 1.1 **Adoption of Proposed Resolution Re: Elderly Exemption.** As you will recall, at the September 18, 2017 City Council meeting, the Council held a public hearing regarding a proposed amendment to the Elderly Exemption Limit from Property Tax Based on Assessed Value for Qualifying Taxpayers. The City Council voted to postpone final action on this Resolution until this evening's meeting. As requested by Assistant Mayor Splaine at that meeting, this evening the Council will receive additional information regarding a the tax lien hardship process and the use of fund balance relative to the elderly exemption.

Elderly Exemption:

The results of the 2017 Statistical Revaluation indicate based on the estimated tax rate of \$15.36 a median increase of \$521 in taxes for the 109 taxpayers who are currently receiving the Elderly Exemption at the existing exemption levels of:

		Tax Relief
• Age 65 to 74	\$120,000	\$1,843
• Age 75-79	\$160,000	\$2,458
• Age 80 +	\$200,000	\$3,072

For the qualified taxpayers, this results in a total exemption amount of \$15,950,600 in Valuation or \$245,001 which equates to approximately 4 cents on the tax rate using the preliminary total valuation.

Option A : To adjust the exemption levels back to the levels prior to tax year 2016 as follows:

		Increase in Tax Relief	Total Tax Relief
• Age 65 to 74	\$125,000	\$ 77	\$1,920
• Age 75-79	\$175,000	\$230	\$2,688
• Age 80 +	\$225,000	\$384	\$3,456

This would result in a total exemption amount of \$17,293,100 or \$265,622 which equates to approximately 5 cents on the tax rate using the preliminary total valuation.

Option B: To adjust the exemption levels by 20% from the current level as follows:

		Increase in Tax Relief	Total Tax Relief
• Age 65 to 74	\$144,000	\$369	\$2,212
• Age 75-79	\$192,000	\$492	\$2,949
• Age 80 +	\$240,000	\$614	\$3,686

This would result in a total exemption amount of \$18,854,001 or \$289,597 which equates to approximately 5 cents on the tax rate using the preliminary total valuation.

In order to reduce the tax burden 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 by either Option A: back to the levels prior to tax year 2016 or Option B: Increasing the Exemption levels by 20% from the current levels.

New Hampshire **RSA 72:38-a Tax Deferral for Elderly and Disabled** allows a tax deferral to certain taxpayers age 65 and older. The following is a summary of the RSA.

- Elderly who are 65 or older as of April 1,
 - Must have owned the home for 5 or more years and is living in the home.
- **OR** Disabled who are eligible under Title II or XVI of Social Security,
 - Must have owned the home for at least 1 year or more and is living in the home.
- There are no statutory income or asset limits, the Assessor may approve.
- Total amount deferred must be no more than 85% of the equity value of the home.
- If there is a mortgage, the mortgagee must approve and sign off on the Tax Deferral Application (PA-30) form.
- Interest accrues at 5%.
- Must be redeemed when the property sells or the taxpayer no longer lives in the home or may be redeemed at any time before.
- Deadline for the application is March 1 of each year.
- The form PA-30 form is recorded at the registry of deeds each time an amount is deferred.

The City Council would move one of the following motions:

- 1) *If no adjustment, exemption levels would remain at their current levels.*
- 2) *If the City Council chooses Option A, City Council action would be to adopt the Resolution, as presented.*
- 3) *If the City Council chooses Option B, City Council action would be to schedule a public hearing for October 16, 2017.*

Action on this item should take place under Section IX 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 Juliet Walker, Planning Director):

- Amy LaBelle, owner of LaBelle Winery, located at 104 Congress Street

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

Acting City Manager's Items Which Require Action:

1. **Adoption of the Hazard Mitigation Plan Update 2017.** As you will recall, the City Council held a public hearing regarding the [attached Hazard Mitigation Plan Update 2017 at the June 19, 2017](#) City Council meeting. Fire Chief Achilles has advised that The Department of Safety, Division of Homeland Security & Emergency Management (HSEM) has completed its review of the Hazard Mitigation Plan and has found the Plan approvable pending adoption. The Plan is before the City Council this evening for adoption and further, authorization for the Acting City Manager to sign the adoption page.

I recommend the City Council move to adopt the Hazard Mitigation Plan Update 2017, as presented, and further, authorize the Acting City Manager to sign the document.

2. **Voluntary Merger of Contiguous Lots Re: Foundry Place and Rock Street Parcels.** As you aware, the construction of the new Foundry Place Garage and street will occupy two municipally owned lots, the former Deer Street Associates lot (Map 138 lot 62) and the Rock Street lot (Map 138 Lot 60). [See attached plans.](#) As a matter of housekeeping, this is to request the City Council authorize the merger of these two lots. With the current lot configuration, the property line runs through the proposed garage.

In addition, the City is currently working with the Department of Environmental Services on environmental remediation work that extends onto both of these sites. Administration of that work is simplified for both the City and the DES if this work takes place on one rather than two lots.

Voluntary mergers of contiguous lots under common ownership is an administrative action handled by the Planning Director. Also [attached is a copy](#) of the paperwork associated with this action.

I recommend the City Council move to authorize the Acting City Manager to take any and all steps required to consolidate the Foundry Place lot and the Rock Street lot.

3. **Request for First Reading Re: Zoning Ordinance Amendments – Off-Street Parking.** [Attached is a memorandum](#) from Planning Director Juliet Walker requesting first reading and outlining the proposed zoning ordinance amendments to off-street parking. [Also, attached is a draft of the proposed zoning ordinance.](#)

At its September 21, 2017 meeting, the Planning Board voted to recommend that the City Council enact the proposed amendments to Articles 8, 11 and 15 regarding off-street parking regulations.

I recommend the City Council move to schedule first reading on the proposed Zoning Ordinance Amendments to the off-street parking regulations at the October 16, 2017 City Council meeting, as presented.

4. **Request for First Reading Re: Gateway Mixed Use District Zoning Amendments.** Attached is a memorandum from Planning Director Juliet Walker requesting first reading and outlining the proposed Gateway Mixed Use District Zoning Amendments. Also, attached is a draft of the proposed zoning ordinance.

At its September 21, 2017 meeting, the Planning Board voted to recommend that the City Council enact the proposed amendments to Articles 4, 5A, and 7 and to adopt a new Article 5B Gateway Mixed Use Zoning Districts (as amended based on discussion by Planning Board) to City Council for approval.

I recommend the City Council move to schedule first reading on the proposed amendment to the Gateway Mixed Use District Zoning Amendments at the October 16, 2017 City Council meeting, as presented.

5. **Request for First Reading to Amend Chapter 12 by Adopting the 2009 International Building Code and 2009 International Residential Code to Replace the Existing 2006 Versions and to Amend Chapter 15 by Adopting the 2009 International Plumbing and Mechanical Codes to Replace the Existing 2006 Version. This also includes local amendments to the 2014 National Electrical Code.** At the July 2017 City Council Retreat, presentations were made by City staff regarding the need to update our local Fire, Building and Health Codes in order to reference current state statutes and to ensure that our local ordinance.

Chapter 12 (International Building Code, 2006 & the International Residential Code, 2006), Chapter 15 (International Plumbing Code, 2006 & International Mechanical Code, 2006), and Chapters 12 and 5 (which reference the National Electric Code, and the International Energy Conservation Code), need to be updated to conform with 2009 adopted state building code, and in addition we recommend adopting the Existing Building Code (also part of the state building code but not reflected in our current ordinances).

As with the existing ordinances, the attached includes local amendments that are tailored to City. We also propose amending the 2014 Electrical Code to prohibit NM cable (trade name Romex) from commercial installations, to prohibit service entrance cable (SER) in commercial installations and to require GFCI protection for certain residential installations (including, for example, in kitchens, bathrooms, garages and basements), to better protect the public health and safety.

If the Council votes to request a first reading, the City will schedule a public information session on these code updates before the public hearing. Prior to that informational meeting, the City will establish a separate webpage that contains the proposed amendments and code information.

I am requesting authorization to bring the second of three code updates, Building, Plumbing, Mechanical and Electrical to the City Council for first reading at the October 16, 2017 City Council meeting.

6. **Request for First 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.** Chapter 5, Fire Department and Prevention Regulations, Articles I, 4, 5, 7 and 8 have been updated to delete obsolete sections of the ordinance and amended to reflect current operations of the Fire Department. For example, we no longer have call firemen (Article 1), there is no longer a petroleum inspector or petroleum district (Article 4) and the municipal fire alarm system is being retired (Article 5). Our current ordinance (Article 9) adopts the 2006 International Fire Code and the amendment to Article 9 would adopt the 2015 International Fire Code and formally adopt the State Fire Code (Saf-C 6000). The proposed amendments to Article 9 reflect the updates from the 2006 to the 2015 International Fire Code. The amendment also modifies sections of the 2015 International Fire Code to reflect the State’s requirements regarding smoke alarms and carbon monoxide detection. Article 9 has also been amended to address our current practices regarding permitting processes, defining “no burn permit” areas in the City, providing additional guidance regarding the installations of sprinkler system and adds a new section on solar panels to give our community clear guidelines regarding this popular source of energy for homeowners and businesses. [See attached.](#)

If the Council votes to request a first reading, the City will schedule a public information session on these code updates before the public hearing. Prior to that informational meeting, the City will establish a separate webpage that contains the proposed amendments and code information.

I am requesting authorization to bring the third and final of three code updates, Fire Department and Prevention Regulation to the City Council for first reading at the October 16, 2017 City Council meeting.

7. **Request for License Agreement Re: 401 State Street – The Rockingham Building.** Oxland Builders is requesting a License Agreement to use two (2) parking spaces in front of 401 State Street (the Rockingham Building) until November 30, 2017. It seeks to use the two parking spaces Monday - Friday for approximately six weeks to assist with its construction activities at the 401 State Street property. The project includes demolition of the existing staircase next to the pool and installing a new permanent staircase. It will use the two spaces for ease of access to the job site, and to load/offload job related materials.

Oxland Builders expects there to be no disturbance to traffic on State Street. There will be no interference with pedestrian traffic. [Attached is a picture](#) of the two spaces Oxland Builders seeks to use, to the left of the van in the picture, the job site is in the background where the hedges are, above the sidewalk.

The City staff has no objection to the granting of a License. The License would include the usual provisions to pay for parking spaces, repair any damage and to maintain insurance.

I recommend the City Council move to approve the License Agreement, and further, authorize the Acting City Manager to execute the Agreement.

8. **Polling Hours – November 7, 2017 Municipal Election.** [Attached is a memorandum from Kelli L. Barnaby, City Clerk](#), recommending that the polling hours for the Municipal Election on November 7, 2017 be set from 8:00 a.m. to 7:00 p.m.

I would recommend the City Council move to set the polling hours from 8:00 a.m. to 7:00 p.m. for the Municipal Election on Tuesday, November 7, 2017.

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 18, 2017. In addition, this can be found on the City's website.
2. **Zagster Bike Share September Report.** [Attached](#) for your information is a memorandum from Planning Director Juliet Walker regarding the Zagster Bike Share September Report.
3. **Coakley Landfill Group Update.** The Coakley Landfill Group (CLG) was scheduled to give a presentation to Council at this October 2nd meeting. The update was to include information from a meeting originally scheduled for September 21st between the CLG and the EPA to discuss what further monitoring/investigative efforts are going to be required in connection with migration of contaminants (including PFCs) from the Coakley Landfill.

The September 21st meeting has been rescheduled to late October. After consulting with the Mayor, we have postponed this presentation until after the rescheduled meeting has taken place. Our new target agenda date is November 20th.