

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, DECEMBER 4, 2017 TIME: 5:45 PM

AGENDA

- 5:45PM – PUBLIC DIALOGUE REGARDING MCINTYRE PROJECT
- 6:30PM – CITY COUNCIL PHOTOGRAPH
- 6:45PM – NON PUBLIC SESSION IN ACCORDANCE WITH RSA 91-A:2, I (a) REGARDING STRATEGY OR NEGOTIATIONS WITH RESPECT TO COLLECTIVE BARGAINING – SCHOOL DISTRICT’S NON-SUPERVISORY CAFETERIA PERSONNEL – AFSCME LOCAL 1386

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

PRESENTATION

- 1. Strategic Planning Committee for Vaughan-Worth-Bridge Revitalization – David Moore, Assistant City Manager

V. ACCEPTANCE OF MINUTES – OCTOBER 16, 2017 & NOVEMBER 9, 2017

VI. PUBLIC DIALOGUE SUMMARY

VII. ORDINANCES AND/OR RESOLUTIONS

- A. Second reading Re: Zoning Ordinance Amendments – Off Street Parking – Chapter 10, Article 11 – Site Development Standards; Article 15 – Terms of General Applicability and Article 8 – Supplemental Use Standards (*Postponed from November 20, 2017 City Council meeting*)
- B. Second reading Re: Gateway Mixed Use District Zoning Amendments – Chapter 10, Article 5B – Gateway Mixed Use Districts; Article 5A – Character-Based Zoning; and Article 4 – Zoning Districts and Use Regulations (*Postponed from November 20, 2017 City Council meeting*)
- C. Second reading to Amend Chapter 5, Fire Department and Prevention Regulation which includes Adoption of 2015 International Fire Code to Replace the Existing 2006 International Fire Code (*Postponed from November 20, 2017 City Council meeting*)

- D. Third and final 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
- E. Third and final reading of Proposed Ordinance Amendments to Chapter 4 Pertaining to the City's Food Licensing and Regulations by Striking Article I-V in its entirety and replace with new language

VIII. APPROVAL OF GRANTS/DONATIONS

- A. *Acceptance of Moose License Plate Conservation Grant - \$9,966.00 (**Sample motion – move to accept and approve the grant award, as presented**)

IX. CONSENT AGENDA

(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

- A. Letter from Matthew McFarland, Saint Patrick Academy requesting permission to hold the 5th annual 5k Road Race on Saturday, March 17, 2018 at 10:30 a.m. (**Anticipated action – move to refer to the City Manager with power**)
- B. Letter from Donald Allison, Eastern States 20 Mile requesting permission to hold the Eastern States 20 Mile Road Race on Sunday, March 25, 2018 (**Anticipated action – move to refer to the City Manager with power**)
- C. *Acceptance of Fire Department Donation – Elizabeth Kler - \$25.00 (**Anticipated action – move to accept and approve the donation to the Portsmouth Fire Department, as presented**)

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. (See E-mail Correspondence)

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

- 1. Request to Establish a Public Hearing Re: Resolution Appropriating from Bond Premium the Sum of One Million Two Hundred Sixty-Nine Thousand One Hundred Forty-eight Dollars and Forty-three Cents (\$1,269,148.43) to be applied to Municipal Complex Improvements

2. Request to Establish a Public Hearing Re: Resolution Authorizing the Application of Unexpended Proceeds of the Borrowing for the Hobbs Hill Landing Water Tank Replacement Project, in the amount of Five Hundred Eighty Five Thousand, Eight Hundred Ninety-Six Dollars and Seventy-Five Cents (\$585,896.75), to pay costs of Water Main Replacement Projects
3. Request to Establish a Public Hearing Re: Supplemental Appropriation for the School Department Collective Bargaining Agreements
4. Report Back from Planning Board Re: Request for Restoration of Involuntarily Merged Lots at 737 Woodbury Avenue

City Manager's Informational Items:

1. Events Listing
2. Peirce Island Wastewater Treatment Facility Upgrade Construction Update
3. Arts Reinvestment Agreement Metrics
4. Guiding Principles for Code Adoption in Portsmouth

B. MAYOR BLALOCK

1. Appointments to be Considered:
 - Appointment of Mary Lou McElwain (current alternate) as a Regular member to the Parking & Traffic Safety Committee
 - Appointment of Ralph DiBernardo as an Alternate to the Parking & Traffic Safety Committee
 - Reappointment of Jody Record to the Planning Board
2. *Appointments to be Voted:
 - Appointment of Adrienne Harrison (current alternate) as Regular member to the Conservation Commission
 - Appointment of Nathalie Morison as an Alternate member to the Conservation Commission
 - Reappointment of Jim Lee to the Zoning Board of Adjustment
 - Appointment of Peter McDonell (current alternate) as a Regular Member to the Zoning Board of Adjustment
3. Budget Schedule FY19
4. *McIntyre Project Next Steps

C. ASSISTANT MAYOR SPLAINE

1. *"Of Flags and Tools"

D. COUNCILOR PERKINS

1. *Adoption of Final Report and Vision of the Strategic Planning Committee for Vaughan-Worth-Bridge Revitalization

E. COUNCILOR DENTON

1. *Volkswagen Settlement

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 October 19, 2017 meetings of the Planning Board are now available on the City's website

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: November 30, 2017
To: Honorable Mayor Jack Blalock and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on December 4, 2017 City Council Agenda

5:45 p.m. - Public Dialogue Re: McIntyre Project

6:30 p.m. - On Monday evening, prior to the non-public session, I have arranged to have a group photograph taken of the City Council Members, City Clerk, City Manager, Deputy City Manager and City Attorney.

6:45 p.m. - Non-Public Session in accordance with RSA 91-A:2,I (a) regarding strategy or negotiations with respect to collective bargaining – School District's Non-Supervisory Cafeteria Personnel – AFSCME Local 1386.

For details on this matter, please refer to the confidential envelope inserted in the inside pocket of your binder.

Presentation:

1. **Strategic Planning Committee for Vaughan-Worth-Bridge Revitalization.** On Monday evening, the Strategic Planning Committee for Vaughan-Worth-Bridge Revitalization will present its Final Report and Vision for the study area that includes City-owned parcels known as the Bridge Street Lot, Worth Lot, and the Vaughan Mall, as well as the public rights-of-way between the future Foundry Place Garage and the Islington Street and Maplewood Avenue Intersection. The Blue Ribbon Committee was appointed in April of 2017 and chaired by Councilor Rebecca Perkins Kwoka. The presentation will be led by Assistant City Manager David Moore, Halvorson Design Partnership President and CEO Bob Uhlig and Ted Touloukian of Touloukian Touloukian Architecture. [See attached Report.](#)

Acceptance of Grants and Donations:

1. **Acceptance of Moose License Plate Conservation Grant.** The City of Portsmouth has been awarded one of the FY2017/2018 Moose License Plate Conservation Grants in the amount of \$9,966 for the conservation project: “Conservation, Microfilming and Digitization of Seven Portsmouth Historic Financial Documents from 1800-1888.”

I recommend the City Council move to accept and approve the grant award, as presented.

Items Which Require Action Under Other Sections of the Agenda:

1. Second Reading of Proposed Ordinances and Resolutions:

- 1.1 **Second Reading Re: Zoning Ordinance Amendments – Off-Street Parking (Postponed from November 20, 2017 City Council meeting).** On October 16, 2017, the City Council voted to pass first reading of the proposed amendments to Articles 8, 11, and 15 regarding off-street parking regulations. On November 20, 2017, the City Council held a public hearing and voted to postpone second reading to the December 4, 2017 City Council meeting in order to have Planning Department staff recommend additional revisions to the amendments. At the November 20th City Council meeting, Councilor Dwyer requested the Planning Department report back regarding required parking for Accessory Dwelling Units.

[Attached is a memorandum](#) from Planning Director Juliet Walker summarizing the revisions between first reading and the November 20, 2017 public hearing and detailed in the [attached documents](#). In addition, the memorandum describes recommended additional amendments for the December 4, 2017 second reading and described in the [attached documents](#).

The City Council may move the following motions:

- 1) *Move to adopt the proposed amendments to first reading as described in the memorandum from Planning Director Juliet Walker, dated November 29, 2017.*
- 2) *Move to pass second reading on the proposed amendments to Articles 8, 11 and 15 regarding off-street parking regulations as amended.*
- 3) *Move to suspend the rules to conduct third and final reading for this evening’s meeting.*
- 4) *Move to pass third and final reading on the proposed amendments to Articles 8, 11 and 15 regarding off-street parking regulations.*

Action on this matter should take place under Section VII of the Agenda.

- 1.2 **Second Reading Re: Gateway Mixed Use District Zoning Amendments (Postponed from November 20, 2017 City Council meeting)**. On October 16, 2017, the City Council voted to pass first reading of the proposed amendments to Articles 4, 5A and 7 and to adopt a new Article 5B Gateway Mixed Use Zoning Districts. On November 20, 2017, the Council held a public hearing and voted to postpone second reading to this evening's meeting in order to have the Planning Department staff recommend additional revisions to the amendments.

[Attached is a memorandum](#) from Planning Director Juliet Walker summarizing the revisions between first reading and the November 20, 2017 public hearing and detailed in the [attached documents](#). In addition, the memorandum describes recommended additional amendments for the December 4, 2017 second reading and described in the [attached documents](#).

The City Council may move the following motions:

- 1) *Move to adopt the proposed amendments to first reading as described in the memorandum from Planning Director Juliet Walker, dated November 29, 2017.*
- 2) *Move to pass second reading on the proposed amendments to Articles 4, 5A, and 7 and to adopt a new Article 5B gateway Mixed Use Zoning Districts as amended.*
- 3) *Move to suspend the rules to conduct third and final reading at this evening's City Council meeting.*
- 4) *Move to pass third and final reading on the proposed amendments to Articles 4, 5A, and 7 and to adopt a new Article 5B Gateway Mixed Used Zoning Districts as amended.*

Action on this matter should take place under Section VII of the Agenda.

- 1.3 **Second Reading to Amend Chapter 5, Fire Department and Prevention Regulation which includes Adoption of 2015 International Fire Code to Replace the Existing 2006 International Fire Code (Postponed from November 20, 2017 City Council meeting)**. The City Council voted to postpone second reading regarding the [attached](#) aforementioned proposed Ordinance to provide an alternative for a review process to allow more solar panels than originally proposed. Councilor Pearson requested the staff to provide visual aids to allow the City Council to see what the Fire Department is proposing to relative to rooftop solar panels.

[Attached is a memorandum from Fire Chief Steve Achilles](#) regarding the Fire Department administration's recommendation to the City Council to amend

sections 605.11.1.2.2 Hip roof layouts (at line 522) and 605.11.1.2.3 Single-ridge roofs (at line 534) to add the following sentence:

Where the strict application of this section is impractical, modifications in accordance with section 104.8 may be approved by the fire code official.

Chapter 5, Fire Department and Prevention Regulations, Articles 1, 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.](#)

City Council may move the following motions:

- 1) Move to amend the form of the ordinance amending Chapter 5 that went to first reading as set forth in the memorandum from Fire Chief Steven Achilles to the City Manager dated November 28, 2017.*
- 2) Move to suspend the rules to conduct third and final reading at this evening's City Council meeting.*
- 3) Move to pass third and final reading of Chapter 5 as amended.*

Action on this matter should take place under Section VII of the Agenda.

2. Third and Final Reading of Proposed Ordinances and Resolutions:

- 2.1 **Third and Final 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.** As a result of the November 20, 2017 City Council meeting, I am bringing back for third and final reading the [attached](#) aforementioned proposed Ordinances.

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 the 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.

In addition, [see attached memorandums from the Legal Department](#) for Chapters 12 and 15 regarding stylistic, formatting changes and amendment to the effective date for the Ordinance.

Further, the Legal Department has recommended two additional amendments to Chapter 15 – one amendment related to Corrugated Stainless Steel Tubing and another amendment to reflect the 2017, not the 2014 National Electric Code because the State has adopted the 2017 National Electric Code effective January 1, 2017.

I recommend the City Council move the following motions:

1) Move to pass third and final reading for Chapter 12 as amended at the November 20, 2017 City Council meeting.

2) Move to pass third and final reading for Chapter 15 as amended at the November 20, 2017 City Council meeting.

Action on this matter should take place under Section VII of the Agenda.

- 2.2 **Third and Final Reading of Proposed Ordinance Amendments to Chapter 4 Pertaining to the City's Food Licensing and Regulations by striking Articles I-V in its entirety and replaced with new language.** As a result of the November 20, 2017 City Council meeting, I am bringing back for third and final reading the aforementioned proposed Ordinance.

At the October 16, 2017 City Council meeting, the Council requested that City staff meet with the NH Lodging and Restaurant Association (NHLRA) to discuss proposed amendments to Chapter 4 which were provided to the City Council on October 16, 2017.

On October 9, 2017, City staff met with Mike Sommers from NHLRA, Jonathan Flagg, Esquire, and Hugo Marin. After discussion, the participants agreed in concept to exempt certain transfers to trusts from the definition of change of ownership and to create a Food Licensing Board of Appeals. The City did not agree to revise the provisions of the ordinance regarding dogs on decks, enclosing outdoor bars and Health Department Guidelines.

Attached is a memorandum from the Legal Department summarizing the City's response after meeting with NHLRA and representatives of local restaurants. Also, attached is a redline version of the ordinance which reflects the changes made after the aforementioned meeting.

I recommend the City Council move to pass third and final reading of the proposed Ordinance as amended at the November 20, 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 Portsmouth Fire Department received a donation from Elizabeth Kler in the amount of \$25.00.

I recommend the City Council move to accept and approve the donation to the Portsmouth Fire Department, as presented. Action on this matter should take place under Section IX of the Agenda.

City Manager's Items Which Require Action:

1. **Request to Establish a Public Hearing Re: Resolution Appropriating from Bond Premium the Sum of One Million Two Hundred Sixty-Nine Thousand One Hundred Forty-eight Dollars and Forty-Three Cents (\$1,269,148.43) to be applied to Municipal Complex Improvements.** The Department of Public Works is requesting allocation of \$1,269,148.43 towards improvements of the City's Municipal Complex. In 2014, City Staff completed a facilities evaluation of the Municipal Complex which identified capital needs at the facility. These needs included the façade of the 1962 portion of the City Hall Complex, upgrades to the Complex's electrical service and motor control center as well as a number of other items. The bond premium will be used to supplement the façade project as well as begin the upgrade of the Municipal Complex's electrical service.

The façade project was driven by a structural evaluation that showed the brick façade was at risk of complete failure. Temporary repairs were made to secure the façade to allow the City time to design a permanent facade replacement. The façade project was bid and the project was awarded to Harvey Construction Corporation and work began in the late summer of 2017. As part of the initial work polychlorinated biphenyls (PCBs) were detected in excess of what was anticipated in the caulking around the windows and concrete panels of the façade. Although staff and the public are not at risk of exposure to the PCBs,

removal and disposal of the additional material is required. The removal and disposal of the PCBs resulted in an additional \$755,000 of unanticipated cost.

In addition to the façade project costs, the electrical system at the Municipal Complex suffered breakdowns in July and in October of this year which resulted in extended power outages at the Municipal Complex. These outages highlighted the need to upgrade this system in order to ensure reliable government operations.

The balance of the bond premium will be used to design and start the upgrade of the Municipal Complex's electrical system. Additional funds to upgrade the electrical service are anticipated and will be requested in the FY 19 CIP.

In order to adopt the [attached proposed Resolution](#), a public hearing is required at the December 18th City Council meeting.

Therefore, I am requesting that the City Council authorize the City Manager to bring back for public hearing and adoption at the December 18, 2017 City Council meeting the aforementioned proposed Resolution.

2. **Request to Establish a Public Hearing Re: Resolution Authorizing the Application of Unexpended Proceeds of the Borrowing for the Hobbs Hill Landing Water Tank Replacement Project, in the amount of Five Hundred Eighty Five Thousand, Eight Hundred Ninety-Six Dollars and Seventy-Five Cents (\$585,896.75), to pay costs of Water Main Replacement Projects.** The City received authorization from the City Council to issue a bond in the amount of \$3.5 Million on March 3, 2014. These funds were requested based on estimated construction costs for the replacement of the Hobbs Hill Water Tank. The project bids received came in under budget and the project is now complete. There is \$585,896.75 remaining in the bond balance.

The City staff would like to reallocate this funding to a water main replacement project as part of an unanticipated Department of Transportation project on Woodbury Avenue in Newington. This will fund the replacement of water main in the limits of the DOT project area that has needed multiple repairs. The lifespan of the new water main will exceed 50 years.

In order to adopt the [attached proposed Resolution](#), a public hearing is required at the December 18th City Council meeting.

Therefore, I am requesting that the City Council authorize the City Manager to bring back for public hearing and adoption at the December 18, 2017 City Council meeting the aforementioned proposed Resolution.

3. **Request to Establish a Public Hearing Re: Supplemental Appropriation for the School Department Collective Bargaining Agreements.** During the budget process, the City Council approved a contingency of \$100,000 for collective bargaining. During the budget process, it was discussed that in the event the City were to settle contracts in FY 18 that exceeded the amount allocated, the City Council in accordance with the City Charter may approve a supplemental appropriation from the Undesignated Fund balance.

To date, the City has allocated the full \$100,000 to cover the costs of the AFSCME 1386B and the Paraprofessionals' contract. Since these contracts were approved, the City Council has approved the School Custodian contract for a cost of \$20,014.

In addition, I will be bringing forward the School Cafeteria contract for City Council approval on December 18, 2017. The total cost of this contract if approved would be \$7,153.00. Therefore, I would request that the City Council approve a supplemental appropriation of \$27,167 for FY 18. [See attached proposed Resolution.](#) The breakdown is as follows:

The total costs for the remaining contracts that would impact the General Fund are:

School Custodians	\$20,014
School Cafeteria Workers	\$ 4,079
School Cafeteria Managers	\$ 3,074
Total	\$27,167

Before, the City Council can authorize any transfers, a public hearing is required.

Therefore, I am requesting the City Council move to schedule a public hearing for the December 18, 2017 City Council meeting.

4. **Report Back from Planning Board Re: Request for Restoration of Involuntarily Merged Lots at 737 Woodbury Avenue.** In a letter submitted on October 11, 2017, Lynn Raeburn requested restoration of two involuntarily merged lots to their premerger status. At the October 16, 2017 City Council meeting, the Council voted to refer this request to the Planning Board.

Attached is a memorandum from Planning Director Juliet Walker reporting back to the City Council; at the Planning's Board's November 16, 2017 meeting, the Board voted to recommend that the City Council restore the involuntarily merged lots to their premerger status as requested. Also, the memorandum describes the description of the lots and the statutory requirements.

I recommend the City Council move to accept the Planning Board's recommendation that 737 Woodbury Avenue be restored to its premerger status as two lots, and municipal zoning and tax maps be updated to identify the premerger status of the lots as described in deeds recorded at the Rockingham County Registry of Deeds and shown on the Standard Property Survey prepared by Easterly Survey dated 10/4/17.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the updated Events Listing](#) from December 1, 2017 through December 31, 2018. In addition, this can be found on the City's website.
2. **Peirce Island Wastewater Treatment Facility Upgrade Construction Update (July – October 2017).** I have [attached for your information](#), an update regarding the Peirce Island Wastewater Treatment Facility Upgrade Construction from July to October 2017.
3. **Arts Reinvestment Agreement Metrics.** [Attached for your information is the supporting material](#) for the goals in the Scope of Services for the Arts Reinvestment Agreement that was approved at the September 5, 2017 City Council meeting with the expectation that additional information would be reported back to the City Council about specific objectives and intended benchmarks for each of these goals.
4. **Guiding Principles for Code Adoption in Portsmouth.** At the November 20, 2017 City Council meeting, Councilor Dwyer requested changes to the Draft Guiding Principles for Code Adoption in Portsmouth. For your information, [attached is an amended draft of the document.](#)