

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, SEPTEMBER 17, 2018 TIME: 6:15PM

- 6:15PM – PUBLIC DIALOGUE SESSION

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

## PROCLAMATION

1. DAUGHTERS OF THE AMERICAN REVOLUTION – CONSTITUTION WEEK
- V. ACCEPTANCE OF MINUTES – *(There are no minutes on for acceptance this evening)*
- VI. PUBLIC DIALOGUE SUMMARY
- VII. PUBLIC HEARINGS & VOTES ON ORDINANCES AND/OR RESOLUTIONS

- A. Public Hearing – Resolution for Exemption for Wind-Power Energy System

RESOLUTION THAT ALLOWS THE CITY TO EXEMPT FROM TAXES, FOR PERSONS OWNING REAL PROPERTY EQUIPPED WITH A WIND-POWERED ENERGY SYSTEM AS DEFINED IN RSA 72:65, AN AMOUNT EQUAL TO THE ASSESSED VALUE OF THE WIND-POWERED ENERGY SYSTEM

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

*(Sample motion – move to adopt the proposed Resolution, as presented)*

- B. Public Hearing – Resolution for Tax Exemption for Woodheating Energy System

RESOLUTION RE: EXEMPTION FOR WOODHEATING ENERGY SYSTEM

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

*(Sample motion – move to adopt the proposed Resolution, as presented)*

- C. First reading of Ordinance amending Chapter 7, Article I, Section 7.102 – Parking Meter Zones, Subsection A, Downtown High Occupancy Zone (**Sample motion – move to pass first reading and hold a public hearing and second reading at the October 1, 2018 City Council meeting**)
- D. First reading of Ordinance amending Chapter 10 – Zoning Ordinance – Creation of a Highway Noise Overlay District (**Sample motion – move to pass first reading and hold a public hearing and second reading at the October 1, 2018 City Council meeting on the following zoning amendments related to the creation of a Highway Noise Overlay District:**
  - **Amendment to Zoning Map to add Highway Noise Overlay District as shown on the map titled “Proposed Highway Noise Overlay District”, dated July 17, 2018;**
  - **Insert new Section 10.613.60 identifying the Highway Noise Overlay District on the Zoning map;**
  - **Insert new Section 10.670 Highway Noise Overlay District;**
  - **Amend Article 15 – Definitions, Section 10.1530 – Terms of General Applicability)**
- E. Third and final reading of Ordinance amending Chapter 9, Article VIII – Boarding or Rooming Houses, Sections 9.801 – Section 9.805 (**Sample motion – move to pass third and final reading**)

#### VIII. APPROVAL OF GRANTS/DONATIONS

- A. \*Acceptance of Grant from Stonyfield Farm, Inc. Re: Organic Land Management Pilot at Alumni Field (**Sample motion – move to approve and accept the grant from Stonyfield Farm, Inc., for an organic land management pilot program at Alumni Field, and further, I recommend the City Council move to approve the request for permission for Stonyfield Farm to hold a field day event in October of this year to the City Manager with power**)

#### IX. CONSENT AGENDA

##### (ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

- Request for License to Install Projecting Sign for Bangor Savings Bank, owner of Bangor Savings Bank for property located at 8 Bow 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)***
- Request for License to Install Projecting Sign for Joy Curth and Christopher Scianna, owner of White Birch and Societe for property located at 129 Market Street Unit A ***(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)***
- Request for License to Install Projecting Sign for Kelly & Gary Cargin owner of Winter Worx LLC d/a/a The Wellington Room “Mondovino Wine Bar” for property located at 67 Bow 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. Email Correspondence ***(Proposed motion – move to accept and place on file)***

## **XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

### **A. CITY MANAGER**

#### **City Manager's Items Which Require Action:**

1. Request for First Reading Re: Shared Active Transportation
2. Proposed Change of Date to FY20 Budget Work Sessions
3. Quitclaim Deed Re: Property located off of Lafayette Road know as Tax Map 296, Lot 2
4. Request for First Reading Re: Demolition Ordinance Amendments

#### **City Manager's Informational Items:**

1. Events Listing
2. Household Hazardous Waste Day
3. Update Re: International Recycling Markets and Portsmouth's Recycling Budget Impacts

### **B. MAYOR BLALOCK**

1. Appointment to be Considered:
  - Everett Eaton reappointment to the Economic Development Commission
2. Appointments to be Voted:
  - Thomas Watson reappointment to the Economic Development Commission
  - Jolanda Fannin reappointment to the Board of Library Trustees
  - Marsha Fillion appointment to the Board of Library Trustees
3. Resignation of Molly Bolster from the Historic District Commission

### **C. COUNCILOR DENTON**

1. Stress & Resilience in Our Estuaries

### **D. COUNCILORS PERKINS**

1. Resolution Re: Housing at Pease International Tradeport

## **XII. MISCELLANEOUS/UNFINISHED BUSINESS**


## **XIII. ADJOURNMENT**

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

*\* Indicates verbal report*

**CITY OF PORTSMOUTH  
PORTSMOUTH, NH 03801**

**Office of the City Manager**

**Date:** September 13, 2018  
**To:** Honorable Mayor Jack Blalock and City Council Members  
**From:** John P. Bohenko, City Manager   
**Re:** City Manager's Comments on September 17, 2018 City Council Agenda

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***Acceptance of Grants and Donations:***

1. **Acceptance of Grant from Stonyfield Farm, Inc. Re: Organic Land Management Pilot at Alumni Field.** In cooperation with the non-profit group Beyond Pesticides and Stonyfield Farm, Inc., we have an opportunity to pursue an organic land management pilot on one of our athletic fields. This pilot is intended to serve as a model for learning what goes into an organic land management program to better identify costs as well as operational changes necessary to transition our land management programs away from synthetic compounds. We recommend the Alumni Field off Woodbury Avenue for the pilot effort.

Stonyfield Farm would pay for a consultant, Chip Osbourn of Osbourn Organics to work with our staff to put in place organic management practices at the Alumni Field over a two year period. In addition, Stonyfield Farm would provide a \$5,000 grant to the City to help cover any additional costs we may incur as part of the pilot.

As part of the grant, Stonyfield Farms requests permission to hold a field day event with food sampling and family activities to promote the pilot effort and bring attention to the benefits of organic practices. If possible, they would like to hold this event in October of this year.

We believe this pilot effort is consistent with previous City Council policy goals and is a great opportunity for staff to receive training and to apply what is learned to one of our fields with the assistance of a regional expert in organic land management.

*I recommend the City Council move to approve and accept the grant from Stonyfield Farm, Inc. for an organic land management pilot program at Alumni Field, and further, I recommend the City Council move to approve the request for permission for Stonyfield Farm to hold a field day event in October of this year to the City Manager with power.*

## ***Public Hearings & Votes on Ordinances and/or Resolutions:***

1. **First Reading Re: Chapter 7, Section 7.102 Parking Meter Zones, Subsection A, Downtown High Occupancy Zone.** At the September 4, 2018 City Council meeting, the Council voted to schedule first reading of the attached proposed Ordinance amending Chapter 7, Section 7.102 Parking Meter Zones, Subsection A, Downtown High Occupancy Zone. Also, attached are the current and proposed maps of the City's High Occupancy Parking Zones. The average occupancy on the streets recommended for inclusion under the definition of High Occupancy presently sit at well over 100% collectively, where 80-85% is the industry standard recognized as 'optimal'. Additionally, expanding the High Occupancy coincides with the 2012 Parking Principles objective to 'Price and manage more desirable on-street parking spaces to favor users who are highly motivated to use them...' City staff have revised Chapter 7, Section 7.102 PARKING METER ZONES, Subsection A, DOWNTOWN HIGH OCCUPANCY ZONE to include the proposed streets – see attached proposed Ordinance.

*I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the October 1, 2018 City Council meeting, as presented.*

2. **First Reading of Ordinance amending Chapter 10 – Zoning Ordinance – Creation of a Highway Noise Overlay District.** At the September 4, 2018 City Council meeting, the Council voted to schedule first reading of the proposed Ordinance for the creation of a Highway Noise Overlay Zoning District. Attached is a memorandum from Planning Director Juliet Walker regarding this matter. The memorandum details the background regarding the City's efforts to seek a mechanism for mitigating highway noise impacts for residential neighborhoods that abut the major highways in the City. Also, attached is a draft Ordinance and a response letter to NHDOT regarding the Type II Noise Abatement Program. The Planning Board conducted a public hearing on this proposed zoning amendment at its August 16, 2018 meeting and voted to recommend approval to the City Council.

*I recommend the City Council move to pass first reading and schedule second reading and public hearing for the October 1, 2018 City Council meeting on the following zoning amendments related to the creation of a Highway Noise Overlay District:*

- *Amendment to Zoning Map to add Highway Noise Overlay District as shown on the map titled "Proposed Highway Noise Overlay District", dated July 17, 2018;*

- *Insert new Section 10.613.60 identifying the Highway Noise Overlay District on the Zoning Map;*
- *Insert new Section 10.670 Highway Noise Overlay District;*
- *Amend Article 15 – Definitions, Section 10.1530 – Terms of General Applicability.*

3. **Public Hearing Re: Resolution for Tax Exemption of Wind-power.** At the August 20, 2018 City Council meeting, the Council voted to schedule a public hearing regarding the proposed Resolution for a Wind-power Tax Exemption. Councilor Denton has requested the [attached Resolution](#) for Wind-power be reviewed by the City Council and be brought forward for action at the September 17, 2018 City Council meeting. Councilor Denton has provided the [attached document](#) that reflects municipalities with a wind-powered exemption.

In order to include wind-power as an exemption, staff has recommended the following language in the Resolution:

If qualified, for persons owning real property equipped with a wind-powered energy system as defined in RSA 72:65, the City shall exempt from taxes an amount equal to the assessed value of the wind-powered energy system.

City Assessor Rosann Lentz has advised this tax exemption will be made available for the April 1, 2019 tax year if adopted.

*I am requesting that the City Council adopt the proposed Resolution, as presented.*

4. **Public Hearing Re: Resolution for Tax Exemption of Woodheating.** At the August 20, 2018 City Council meeting, the Council voted to schedule a public hearing regarding the proposed Resolution for a Woodheating Tax Exemption. Councilor Denton has requested the [attached Resolution](#) for Woodheating be reviewed by the City Council and be brought forward for action at the September 17, 2018 City Council meeting. Councilor Denton has provided the [attached document](#) that reflects municipalities with a woodheating exemption.

In order to include woodheating as an exemption, staff has recommended the following language in the Resolution:

If qualified, for persons owning real property equipped with a woodheating energy system as defined in RSA 72:69, the City shall exempt from taxes an amount equal to the assessed value of the woodheating energy system.

City Assessor Rosann Lentz has advised this tax exemption will be made available for the April 1, 2019 tax year if adopted.

*I am requesting that the City Council adopt the proposed Resolution, as presented.*

5. **Third and Final Reading of Boarding House Ordinance.** At the September 4, 2018 City Council meeting the Council voted to pass second reading and schedule a third and final reading of the [attached proposed Ordinance](#) amending Chapter 9, Article VIII: Boarding or Rooming Houses. The amendment adds the terminology “and Rooming House” and adds the following Term and Condition:

- D. The permit shall not allow any more rooms to be rented, leased or made available, persons to occupy the Rooming or Boarding House than are authorized by the Portsmouth Zoning Ordinance.

*I recommend the City Council move to pass third and final reading of the proposed Ordinance, as presented.*

### ***Consent Agenda:***

1. **Request for Licenses to Install Projecting Signs.** [Attached are three requests for projecting sign licenses \(see attached memorandums from Juliet Walker, Planning Director\):](#)

- Bangor Savings Bank, owner of Bangor Savings Bank for property located at 8 Bow Street
- Joy Curth and Christopher Scianna, owners of White Birch and Societe for property located at 129 Market Street Unit A
- Kelly and Gary Cargin, owners of Winter Worx LLC DBA The Wellington Room for property located at 67 Bow Street

*I recommend the City Council move to approve the aforementioned Projecting Sign Licenses as recommended by the Planning Director and, further, authorize the City Manager to execute the License Agreements for these requests.*

### ***City Manager’s Items Which Require Action:***

1. **Request for First Reading Re: Shared Active Transportation.** I asked the City Attorney and Planning Director to look into the concept of Shared Active Transportation (electric scooters, bicycles and the like). Their focus in discussing a potential regulation was to avoid the type of problems outlined in the NBC News article dated July 9, 2018 titled "The Next Uber? Scooter startups flood US cities ([see attached](#)). In approaching this matter, staff was mindful of the need for enabling legislation allowing the municipality to take any particular action and we also believed that the simpler regulation might be the better regulation for both adoption and enforcement purposes.



With all of the foregoing in mind, an outline of a proposed regulation might be as follows:

- I. Broadly define all of the types of Shared Active Transportation which the City would propose to regulate by this ordinance. The definition would include bicycles, e-bicycles, scooters and a-scooters.
- II. The ordinance would prescribe that all vehicles used in shared active transportation may be parked when unattended only in specific areas designated by the City. An example might be the bicycle corrals which have been located in various locations downtown. The ordinance would also allow for the vehicles use in shared transportation to be parked in a list of areas other than the designated areas such as:
  - a. Private property with the permission of the private property owner.
  - b. City-owned property adjacent to streets or sidewalk but not within the street or sidewalk.
- III. The ordinance would contain an enforcement provision which would contain two items:
  - a. First any Shared Active Transportation vehicle left unattended in any place other than permitted by the ordinance will be removed from the street by the City; and
  - b. There will be a penalty required to be paid by the owner of the vehicle before the vehicle would be returned.
- IV. The ordinance would create some kind of appeal procedure for shared active transportation owners or operators who were displeased with the action of City in connection with the vehicles.

*If the City Council wishes to proceed with a first reading of a proposed Ordinance, the following motion would be required:*

*Move to schedule a first reading of the proposed Ordinance at the October 1, 2018 City Council meeting.*

2. **Proposed Change of Date to FY20 Budget Work Sessions**. As you will recall, the Mayor recommended that the City Council take the place at the Joint Budget Committee for an early review of the FY20 budget.

At your last meeting, the Council established two (2) work session dates, Monday, October 29<sup>th</sup> and Wednesday, November 28<sup>th</sup>. There is a conflict with the October 29<sup>th</sup> date; I am recommending changing this date to Thursday, November 1, 2018 at 6:30 p.m. In discussions with the Mayor, the recommended format for these work sessions will be to invite the Police and General Government to the November 1<sup>st</sup> meeting to discuss their needs for FY20. Further, since the School Department and Fire Department would have

been scheduled for the second work session on November 28<sup>th</sup>, it was felt that a work session closer to November 1<sup>st</sup> would keep continuity in the process.

Therefore, I am recommending the City Council establish a work session on November 7<sup>th</sup> at 6:30 p.m. to meet with the School Department and Fire Department to discuss their needs for FY20. The work session scheduled for November 28<sup>th</sup> would be for the purpose of reviewing preliminary budget estimates for FY20.

*I recommend the City Council move to change the date of the Work Session on Monday, October 29, 2018 to Thursday, November 1, 2018 and establish a Work Session on Wednesday, November 7, 2018, at 6:30 p.m.*

3. **Quitclaim Deed Re; Property located off of Lafayette Road known as Tax Map 296, Lot 2.** In order to clear up title to a 6.5 acre mostly wet, land-locked parcel on the border of Greenland and Rye, the Legal Department recommends that the City accept a quitclaim deed for that parcel from Mary Beth Herbert who resides at 112 Gates Street, Portsmouth. [Attached is a map showing the parcel known as Tax Map 296, Lot 2.](#)

On August 28, 1995 the former Portsmouth Tax Collector issued a tax deed conveying land located on Lafayette Road known as Tax Map 296, Lot 2 to Mary Beth Herbert. This conveyance was in error. Subsequently, on September 8, 1995 the Tax Collector conveyed through a Corrective Deed a parcel of land located at Map 296, Lot 5 to Ms. Herbert (the correct lot). No quitclaim deed relative to Lot 2 was filed to fully effectuate and correct the original conveyance error.

Ms. Herbert does not wish to retain any interest in Lot 2 and the Legal Department has prepared a quitclaim deed to accomplish this clearing up of title. Ms. Herbert continues to own Lot 5.

*I recommend the City Council move to refer to the Planning Board for a recommendation to accept a quitclaim deed from Ms. Herbert for property located at Tax Map 296, Lot 2, land-locked property located off of Lafayette Road on the border of Greenland and Rye.*

4. **Request for First Reading Re: Demolition Ordinance Amendments.** In working with staff in the Planning Department, I request the City Council consider adopting several amendments to Article II: Demolition Ordinance. This request is timely given the recent review on Pinehurst Street project by both the Inspection Department and the Demolition Review Committee.

In particular, the first issue deals with the applicability of the Ordinance. Currently, only demolition projects that receive a public hearing within the Historic District are exempt from the Demolition Ordinance. I suspect that this is primarily due to the fact that all abutters in the Historic District receive formal notice of the demolition as required under the Historic District Overlay in the Zoning Ordinance.

In contrast, even when the Zoning Ordinance requires a noticed public hearing before the Planning Board or the Board of Appeals the Demolition Ordinance currently requires the owner to also post a sign on the property as well as publish a legal notice for similar demolition projects that are located outside the Historic District. Requiring additional public hearings when demolition has already been considered by the Planning Board or Board of Adjustment seems redundant, wasteful, and highly-ineffective.

As a result, we think it more appropriate and equitable to both the owner and the abutters to limit the applicability of the Demolition Ordinance to demolition projects that have not been subject to a noticed public hearing before any of these boards or commissions. Additionally, the current Ordinance contains a very broad definition of what constitutes demolition. For example, removal of a small deck, stairs, or even a single chimney could now be considered demolition under the Ordinance. As such, I would suggest that we consider narrowing the definition of a demolition under the Ordinance and exempt such minor alterations to existing structures.

Finally, given the recent confusion as to the correct language required with respect to the exact notice requirements of a property sign or the published legal notice I would suggest that we amend the Ordinance to clarify the language of both the property sign and the legal notice.

*I recommend the City Council move to schedule a first reading on the proposed Ordinance at the October 1, 2018 City Council meeting.*

### ***Informational Items:***

1. **Events Listing.** For your information, [attached is a copy of the updated Events Listing showing events from this date forward through 2018.](#) In addition, this can be found on the City's website.
2. **Household Hazardous Waste Day.** This year will mark the 22<sup>nd</sup> year in which Portsmouth has conducted a household hazardous waste collection event. Our fall event will take place from 8 am to noon on October 20, 2018 and a spring event will be scheduled in May 2019. Nearby communities of Greenland and Newington will also participate in our collection event at no cost to the City. The collection location is at the Public Work's Vehicle Maintenance Facility on 680 Peverly Hill Road.

According to the NH Department of Environmental Services, the average household throws 15.5 lbs. of hazardous material into the trash each year. Household hazardous materials are disposed of in other ways too. Certain products, such as used oil, are frequently poured down storm drains and many products end up going down the sink drain to septic systems or sewers. The City sees the household hazardous waste collection events as an outreach/education opportunity to help protect our environment.

The City has contracted with Clean Ventures LLC to collect the hazardous waste material. Clean Ventures will be responsible for supplying appropriate hazardous waste containers, collecting the waste from participating community residents, supplying qualified personnel, personal protective equipment, setting up and sorting hazardous materials within an area that is adequately controlled with spill contaminant provisions, and to provide documented transportation and disposal of hazardous waste.

3. **Update Re: International Recycling Markets and Portsmouth's Recycling Budget Impacts.** Attached is a memorandum from Jacob Levenson, Solid Waste Sustainability Coordinator, regarding an updated on the international recycling markets and Portsmouth's recycling budget impacts.